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FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. July 20, 2010

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on July 13, 2010

AWARDS AND PROCLAMATIONS

- Proclamations:

Micky Axton Memorial Day
- Awards:

Certificates of Appointment-Mayor's Youth Council

I. PUBLIC AGENDA

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Vickie Sandell Stang-Request to evaluate the rationale behind holding invocations before each City Council Meeting.
2. Joseph A. Stanga-Noise Ordinances relating to public health, nuisances, and use of recordings in advertisement.
3. Shelbert Abraham Jr.-Disparity of black men to ascend in today's workplace due to past incarceration.

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. Repair or Removal of Dangerous and Unsafe Structures, 1648 North Piatt. (District I)

RECOMMENDED ACTION: Take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid as of July 20, 2010; (2) the structure is maintained secure as of July 20, 2010 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of July 20, 2010, and is so maintained during renovation.

2. Repair or Removal of Dangerous and Unsafe Structures, 2031 East 16th Street North. (District I)

RECOMMENDED ACTION: Take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid as of July 20, 2010; (2) the structure is maintained secure as of July 20, 2010 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of July 20, 2010, and is so maintained during renovation.

III. NEW COUNCIL BUSINESS

1. 2011 Annual Operating Budget and 2010 Budget Revisions.

RECOMMENDED ACTION: Set the public hearing on the Proposed 2011 Budget (including the Tax Increment Financing Districts and the Self-Supporting Municipal Improvement District) and the revised 2010 Budget for August 10, 2010; authorize publication of the formal public hearing notice; approve first reading of the general budget, TIF district, and SSMID ordinances; approve necessary technical adjustments; and set a maximum amount of taxes levied (\$100,319,410) based on an anticipated mill levy of 32.142 mills (no change from the current mill levy) and an estimated assessed valuation of \$3.121 billion.

2. Proposed Amendments to Amusement Parks and Rides Licensing Ordinance Chapter 3.20 of the Code of the City of Wichita.

RECOMMENDED ACTION: Approve first reading of the Amusement Park and Ride Ordinance adopting amendments to Chapter 3.20 of the City Code relating to amusement park and ride licensing, inspection, operation and enforcement.

3. Kingsbury Tract, future park site development. (District VI)

RECOMMENDED ACTION: Approve the Supplemental Agreement and authorize the necessary signatures.

4. Woodlawn Right Turn Lane north of Kellogg. (District II)

RECOMMENDED ACTION: Approve the project, place the ordinance on first reading and authorize the necessary signatures.

5. City Council Policy 13 for Naming of Public Facilities and Street Over-Naming Request. (District I)

RECOMMENDED ACTION: Approve the over-naming policy and the request to over-name 2600 and 2700 blocks of North Lorraine Avenue for Dr. W.G. Williams.

(10:00 a.m. or soon thereafter)

6. General Obligation Bond and Note Sale.

RECOMMENDED ACTION: Direct the opening and reading of the bids; award the sale of the Bonds and Temporary Notes; and find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction, adopt the Bond and Note Ordinances and Resolutions and authorize the publication of the Bond and Note Ordinances.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

IV. NON-CONSENT PLANNING AGENDA

None

V. CONSENT PLANNING AGENDA

1. *ZON2010-00016 – City zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”); generally located northeast of the intersection of Pawnee Avenue and Seneca Street, 2256 South Seneca Street. (District IV)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #242; and withhold publication of the ordinance until conditions of the protective overlay are met;

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Summer Jackson, Housing Member is also seated with the City Council.

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA

1. *Supplemental Agreement #3, AECOM Program Management Services, Air Capital Terminal 3 Project.

RECOMMENDED ACTION: Approve Supplemental Agreement #3 with AECOM and authorize the necessary signatures.

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. Approval of travel expenses for Council Member Lavonta Williams to attend the NBC-LEO Annual Summer Conference in Memphis, TN, August 10-16, 2010.

RECOMMENDED ACTION: Approve the expenditures.

XI. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

RECOMMENDED ACTION: Approve the Appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 22A)

1. Report of Board of Bids and Contracts dated July 19, 2010.

RECOMMENDED ACTION: Receive and file report; approve Contracts;
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2010</u>	<u>(Consumption on Premises)</u>
Mark T Ryan	Ryan Boys Inc. dba Two Brothers BBQ*	300 South Greenwich Road

* General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:
 - a. List of Preliminary Estimates. (See Attached)

RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:

- a. Petition to construct a Sanitary Sewer Lift Station and Force main for Southwest Passage and Red Rock Village Additions, south of Pawnee, west of 119th Street West. (District IV)
- b. Petition for Sanitary Sewer in The Gateway Center Addition, south of 13th, east of Greenwich. (District II)
- c. Petition for Sanitary Sewer in Pearson Commercial Addition, east of Maize, south of 29th Street North. (District V)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Statement of Costs:

- a. Statements of Costs. (See Attached)

RECOMMENDED ACTION: Approve and file.

6. Consideration of Street Closures/Uses.

- a. Community Events - Prairie Fire Marathon.
- b. Community Events - Prairie Fire Half Marathon
- c. Community Events - WaterWalk JAM. (District I)

RECOMMENDED ACTION: Approve street closure.

7. Agreements/Contract:

- a. Special Waste Disposal Site and Hauling Contract.

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

8. Property Acquisition:

- a. Partial Acquisition of 1700 West 47th Street South for the 47th Street South from Meridian to Seneca Improvement Project. (District IV)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

9. Minutes of Advisory Boards/Commissions

Police and Fire Retirement, May 26, 2010

Board of Appeals of Refrigeration, Air-Conditioning, Warm Air Heating and Boiler, May 27, 2010

RECOMMENDED ACTION: Receive and file.

10. Claim for Damages - June 2010.

RECOMMENDED ACTION: Receive and file.

11. Contracts and Agreements for June 2010.

RECOMMENDED ACTION: Receive and file.

12. Approval of Contract to Lease Transit Bus Tires.

RECOMMENDED ACTION: Approve the tire lease contract with Bridgestone Americas Tire Operations, LLC and authorize the necessary signatures.

13. Resolution of support for and authorization to submit a 2010 TIGER II grant pre-application to the USDOT Federal Highway Administration. (Districts I, IV, and VI)

RECOMMENDED ACTION: Approve the resolution and authorize submission of a 2010 TIGER II Discretionary Grant and Planning Grant pre-application to the U.S. Department of Transportation (USDOT), Federal Highway Administration.

14. Resolution ordering a Public Hearing: Mead Street Improvement, between 3rd and Central. (District VI)

RECOMMENDED ACTION: Adopt the resolution and authorize the necessary signatures.

15. Emergency Sanitary Sewer Repairs at 25th Street North and Amidon. (District VI)

RECOMMENDED ACTION: Affirm the City Manager's Public Exigency approval of the project.

16. Annexation of Street Right-of-Way in Sedgwick County by the City of Andover. (District II)

RECOMMENDED ACTION: Approve the request and authorize the Interim Director of Water Utilities to issue a memorandum advising the City of Andover of the approval of the waiver of the annexation provision in the water service contract pertaining to the specified section of street right-of-way at 159th Street between 21st Street North and ½ mile north of 21st Street North.

17. HPC2010-00165 – “Environs” Review of the Proposed Demolition of 1619 North Fairmount. (District I)

RECOMMENDED ACTION: Overturn the decision of the HPB and approve the demolition based on a consideration of all relevant factors and determine that there is “no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use.”

18. Sunflower Trails Grant for Harvest Park. (District V)

RECOMMENDED ACTION: Approve the grant application.

19. Wichita Community Foundation Walking Group Grant. (Districts I, II, and VI)

(PULLED PER PARK DEPT)

20. Wichita Community Foundation Nutrition Education Grant. (Districts I, II, and VI)

(PULLED PER PARK DEPT)

21. General Obligation Refunding Bonds and Temporary Note Sale.

RECOMMENDED ACTION: Adopt the resolution: 1) authorizing the general obligation refunding bonds, general obligation sales tax refunding bonds and general obligation improvement temporary note sales; 2) approving the distribution to prospective bidders of the Preliminary Official Statement, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel; 3) finding that such Preliminary Official Statement is in a form “deemed final” for the purpose of the Securities Exchange Commission’s Rule 15c2-12(b)(1), subject to revision, amendment and completion in the final Official Statement; 4) authorizing distribution of the Notice of Sale; and 5) authorizing City staff, in consultation with Bond Counsel to take such further action reasonably required to implement this Resolution.

22. Second Reading Ordinances: (First Read July 13, 2010)

- a. List of Second Reading Ordinances. (See Attached)

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
1648 North Piatt (District I)

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action based on testimony received during the review hearing.

Background: On June 16, 2009, a report was submitted with respect to the dangerous and unsafe conditions on the property at 1648 North Piatt. The Council adopted a resolution providing for a public hearing to be held on the condemnation action at 9:30 a.m., or soon thereafter, on August 4, 2009.

On August 4, 2009, Andy Bias, representing Mennonite Housing Services, appeared on behalf of this property as a potential buyer. Mr. Bias indicated Mennonite Housing Services would be submitting a Housing Tax Credit project application to the State of Kansas to demolish the vacant, boarded buildings and to subsequently construct new multi-family housing on the site. Mr. Bias said he anticipated a preliminary response from the State on the proposed Housing Tax Credit project by early to mid-October.

City Council Member Lavonta Williams made a motion to defer City Council action until mid-October. The motion was approved.

On October 20, 2009, this property was again presented to City Council. City Council was informed the Housing Tax Credit project application was still pending approval. City Council Member Williams requested that staff keep her informed of property conditions and project status, and that the case be brought back to the Council upon completion of the spring 2010 Housing Tax Credit application process.

On June 28, 2010, staff was informed by Andy Bias, Executive Director of Mennonite Housing Services, that the Housing Tax Credit was not approved and could not be resubmitted until August 2010.

On June 29, 2010, staff was informed by property owner John Schupbach that he is in the process of working with the bank to sell the property through McCurdy Auction.

Analysis: Staff inspected the property on July 1, 2010; no repairs had been made, but the property was secure and the premises were clean.

The 2009 taxes are delinquent in the amount of \$207.95.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures

demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The owner and owner's representative has been informed of the date and time of the hearing.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid as of July 20, 2010; (2) the structure is maintained secure as of July 20, 2010 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of July 20, 2010, and is so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolution published once in the official city paper and advise the owners of these findings.

Attachments: None

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
2031 East 16th Street North (District I)

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action based on testimony received during the review hearing.

Background: On June 16, 2009, a report was submitted with respect to the dangerous and unsafe conditions on the property at 2031 East 16th Street North. The Council adopted a resolution providing for a public hearing to be held on the condemnation action at 9:30 a.m., or soon thereafter, on August 4, 2009.

On August 4, 2009, Andy Bias, representing Mennonite Housing Services, appeared on behalf of this property as a potential buyer. Mr. Bias indicated Mennonite Housing Services would be submitting a Housing Tax Credit project application to the State of Kansas to demolish the vacant, boarded buildings and to subsequently construct new multi-family housing on the site. Mr. Bias said he anticipated a preliminary response from the State on the proposed Housing Tax Credit project by early to mid-October.

City Council Member Lavonta Williams made a motion to defer City Council action until mid-October. The motion was approved.

On October 20, 2009, this property was again presented to City Council. City Council was informed the Housing Tax Credit project application was still pending approval. City Council Member Williams requested that staff keep her informed of property conditions and project status, and that the case be brought back to the Council upon completion of the spring 2010 Housing Tax Credit application process.

On June 28, 2010, staff was informed by Andy Bias, Executive Director of Mennonite Housing Services, that the Housing Tax Credit project for 2031 E. 16th St. North was not approved, and could not be resubmitted until August 2010.

On June 29, 2010, staff was informed by property owner John Schupbach that he is in the process of working with the bank to sell the property through McCurdy Auction.

Analysis: Staff inspected the property on July 1, 2010; no repairs had been made and the premises were clean. The main level of the structure was secure, however; the second story level had broken windows.

The 2009 taxes are delinquent in the amount of \$83.83. There is pending special assessment for weed mowing in the amount of \$123.00.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition

activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The owner and owner's representative has been informed of the date and time of the hearing.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid as of July 20, 2010; (2) the structure is maintained secure as of July 20, 2010 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of July 20, 2010, and is so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolution published once in the official city paper and advise the owners of these findings.

Attachments: None

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council
SUBJECT: 2011 Annual Operating Budget and 2010 Budget Revisions
INITIATED BY: Department of Finance *Levy Carpenter*
AGENDA: New Business

Recommendations: Set the public hearing date, authorize the notice, and place the ordinances on first reading.

Background: The City Council has received the City Manager's Proposed 2010/2011 Budget (including tax increment financing districts). The Council is receiving public comment at its weekly Council meetings.

Analysis: The proposed 2011 annual operating budget is \$519,298,864 including all Tax Increment Financing (TIF) Funds and the Self-Supporting Municipal Improvement District (SSMID) Fund. Interfund transactions and appropriated reserves increase this amount to \$662,492,806. The inclusion of expendable trust funds, as required by law, is an additional \$77,991,411 for a total of \$740,484,217. The estimated mill levy for this budget would be 32.142 mills, no change from the levy for the current 2010 Budget.

The General Fund property tax levy is \$76,910,920 (including a delinquency allowance) at an estimated 24.642 mills. The levy for the Debt Service Fund is \$23,408,490 (including a delinquency allowance) and is estimated at 7.500 mills.

There are a total of six TIF Funds included in the 2011 Proposed Budget. These include two environmental TIFs (Gilbert & Mosley and North Industrial Corridor) and four economic TIFs (East Bank, 21st & Grove, Old Town Cinema, and Northeast Redevelopment). The combined resources of the six TIF Funds are \$6,678,177, of which \$5,990,518 is derived from property tax increments.

The SSMID Fund is included in the proposed budget assuming an assessed valuation of \$98,598,496, a 2.2% decrease from the 2010 valuation. Assuming a mill levy rate of 5.95 mills (identical to the levy for the current 2010 Adopted Budget) and a delinquency factor of 6%, \$551,461 in property tax revenue net of delinquency will be collected for 2010. Factoring the revenue from prior year delinquencies (\$15,000), other revenue (\$33,445) and motor vehicle tax revenue (\$22,903) results in a total of \$622,810 in projected expenditures.

The dollar amounts, after they are set in the published notice of hearings on the proposed budget, cannot be exceeded, although the City Council may determine subsequently to reduce the taxes levied or expenditure levels. Formal hearing and adoption of the budget is scheduled for August 10th. If subsequent actions result in an increase to the budget, a process of re-publication, hearings and certification will be required. In a technical adjustment the revenue estimate for the Northeast Redevelopment TIF in 2010 will be reduced by \$200.

In addition to action on the 2011 Budget, it is requested that action be taken to amend last year's 2010 Adopted Budget – as contained in the current proposed budget submitted to the City Council:

1. The **Downtown Parking Fund** was created in 2010. The initial budget projection of \$340,000 has been increased by \$231,649 based on revised projections of activity associated with downtown parking.
2. The **Cemetery Fund** increase of \$29,870 reflects an increase in the primary costs financed from this fund: mowing expenditures.
3. The **Fleet Fund** increase of \$3,192,780 reflects a technical adjustment due to fuel costs. In the 2010 Adopted budget, fuel costs were removed from the Fleet Fund budget and shifted to operating department budgets. To simplify accounting procedures, fuel expenditures will first pass through the Fleet Fund. These expenditures will be offset by charges to departments.
4. The **Special Reserve Fund** is increased by \$75,000. This fund is scheduled to be closed at year end 2010, with all funds returned to the General Fund. The amount remaining in the fund is greater than the current expenditure authority.
5. The **Old Town TIF Fund** is increased by \$354,537. This fund is proposed for liquidation at year end; increasing the 2010 budget will allow funds to be transferred to the Debt Service Fund and back to the appropriate taxing jurisdictions when the fund is dissolved at year end.

Financial Considerations: Publication of the notice of formal hearing will set the maximum dollars that may be expended in each fund. The City Council may subsequently reduce expenditures required (and proposed tax dollars to be levied) but not increase them.

Goal Impact: The adoption of the annual budget provides the funding sources for services provided in each goal area.

Legal Considerations: As required by law, the proposed budget will be published with appropriated balances. State statutes require formal public hearings prior to approval of the annual operating budget and for budget amendments of published funds. The 2011 Budget is scheduled to be adopted by the City Council on August 10, in compliance with state statute, and to allow the appropriate forms to be filed with the County Clerk by the statutory date of August 25th.

Recommendation: It is recommended that the City Council set the public hearing on the Proposed 2011 Budget (including the Tax Increment Financing Districts and the Self-Supporting Municipal Improvement District) and the revised 2010 Budget for August 10, 2010; authorize publication of the formal public hearing notice; approve first reading of the general budget, TIF district, and SSMID ordinances; approve necessary technical adjustments; and set a maximum amount of taxes levied (\$100,319,410) based on an anticipated mill levy of 32.142 mills (no change from the current mill levy) and an estimated assessed valuation of \$3.121 billion.

Attachments:

Notice of budget hearing – Proposed Budget 2011 Expenditures
Notice of budget hearing – Amending the 2010 Budget
Notice of budget hearing – Proposed Budget 2011 Tax Increment Financing Funds (TIF)
Notice of budget hearing – Amending the 2010 Tax Increment Financing Funds (TIF)
Notice of budget hearing – Proposed Budget 2011 Expenditures - SSMID
Ordinance – Fixing General Tax levy – City of Wichita
Ordinance – Fixing General Tax Levy - Downtown Wichita Self Supported Municipal Improvement District

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2011 Annual Operating Budget and Revisions to the 2010 Budget
New Business

Ordinance – East Bank Redevelopment TIF
Ordinance – Old Town Cinema TIF
Ordinance – 21st and Grove Redevelopment TIF
Ordinance – Northeast Redevelopment TIF
Ordinance – Gilbert and Mosley Site Redevelopment TIF
Ordinance – North Industrial Corridor Redevelopment TIF

(Published in The Wichita Eagle on August 13, 2010) 037002

ORDINANCE NO. 48-779

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE 21ST AND GROVE REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the 21st and Grove Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the 21st and Grove Redevelopment District, the District being created in 1995; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the 21st and Grove Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2002; and,

WHEREAS, the boundaries of the 21st and Grove Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$152,643 of increment funds in ad valorem taxes from the 21st and Grove Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the 21st and Grove Redevelopment District at \$152,643 for the year beginning January 1, 2011, and ending December 31, 2011.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2011, and December 31, 2011, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the

Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the 21st and Grove Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August, 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE 21ST AND GROVE REDEVELOPMENT DISTRICT (TIF DISTRICT #5)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of East 21st Street North and Grove Avenue thence south along the center line of Grove Avenue to the intersection of Grove Avenue and Stadium Avenue, thence west along the center line of Stadium Drive to the intersection of Stadium Drive and Madison Avenue, thence south along the center line of Madison Avenue to the point adjacent to the southeast corner of Lot 6 Block A in the J Walter Ross 2nd Addition on Stadium Drive, thence west to the center line of Piatt Avenue, thence north along the center line of Piatt Avenue to the intersection of Piatt Avenue and 21st Street North, thence east along the center line of 21st Street North to a point adjacent to the southwest corner of Lot 1 in the Logopedics Addition on 21st Street North, thence north to the center line of 25th Street North, thence east along the center line of 25th Street North to the point adjacent to the northeast corner of Reserve “C” in the Logopedics Addition, thence south to the center line of 21st Street North, thence east along the center line of 21st Street North to the point of beginning.



THE 21ST AND GROVE REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #5)

ORDINANCE NO. 48-780

AN ORDINANCE MAKING AND FIXING GENERAL TAX LEVY FOR THE CITY OF WICHITA, KANSAS, FOR THE YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011, AND RELATING THERETO, AND CONCURRENTLY APPROVING CERTAIN AMENDMENTS TO THE 2010 ADOPTED BUDGET.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas has adopted a budget requiring \$100,319,410 in general taxes to be levied for the funds as specified below.

There is hereby levied by the City of Wichita, Kansas on all taxable tangible property in the City of Wichita, Kansas, according to the estimated assessed valuation thereof, a mill levy rate for the City of Wichita, Kansas, and said mill levy rate is subject to the actual determination of assessed valuation by the County Clerk. It is the intention of the City of Wichita to set a levy sufficient to raise the above amounts; PROVIDED, that said levy must remain within those limitations set by statute or charter ordinance.

SECTION 2. That in accordance with Section 1 hereof, there be and hereby is levied by the City of Wichita, Kansas, upon all the taxable property in the City of Wichita, Kansas, according to the assessed valuation thereof, the following amount for the use of the City of Wichita, Kansas, for the year 2011, which begins January 1, 2011, and ends December 31, 2011, for the following purposes, to wit:

CALCULATION OF TAX DOLLARS TO BE LEVIED		
	<u>City of Wichita</u>	<u>Mill Levy</u>
Assessed Valuation	\$3,121,131,936	
Taxes to be Levied:		
General Fund	76,910,920	24.642
Debt Service Fund	<u>23,408,490</u>	<u>7.500</u>
Total:	101,298,570	32.142

SECTION 3. It is hereby attested that in order to maintain the public services essential for the citizens of this city, it will be necessary to utilize property tax revenue in an amount exceeding the revenues expended in the budget year 2010. The estimated amount of increased property tax revenue is \$2,242,590.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the property taxes required in this ordinance to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. That the amendments to the 2010 Adopted Budget of the City of Wichita, Kansas, as proposed for consideration and noticed for public hearing concurrently with the proposed 2011 Budget, be, and the same (together with any modifications thereto as may have been made following the public hearing) hereby are, approved and adopted.

SECTION 6. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August, 2010

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
and Director of Law

ORDINANCE NO. 48-781

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has previously, by Ordinance No. 43-009, established a Redevelopment District designated as the North Industrial Corridor Redevelopment District under authority of K.S.A. 12-1770, *et seq.*; and,

WHEREAS, the City has by ordinance passed, upon a 2/3 affirmative vote of the governing body, a redevelopment plan for the North Industrial Corridor Redevelopment District, the District being created in 1996; and,

WHEREAS, the City has previously found that the conditions set forth in K.S.A. 1995 Supp. 12-1771(a)(2) did exist and therefore the increment in ad valorem taxes for the North Industrial Corridor Redevelopment District is set on a yearly basis as provided in K.S.A. 12-1771a(b); and,

WHEREAS, the boundaries of the North Industrial Corridor Redevelopment District are described in "Exhibit A" attached hereto

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget requiring \$1,165,300 of increment funds in ad valorem taxes from the North Industrial Corridor Redevelopment District (the boundaries of the District are described in "Exhibit A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby sets the increment to be collected from ad valorem taxes produced from property located within the North Industrial Corridor Redevelopment District at \$1,165,300 for the year beginning January 1, 2011, and ending December 31, 2011.

SECTION 3. The purpose of setting this increment is to pay the direct costs of investigation and remediation of the contaminated condition that exists in the North Industrial Corridor Redevelopment District that are anticipated to be incurred between January 1, 2011, and December 31, 2011, including costs of remediation and investigation, and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. The increment set herein does not exceed twenty percent (20%) of the amount of taxes that were produced in 1996, which is the year in which the North Industrial Corridor Redevelopment District was first established.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment to be produced from ad valorem taxes that are to be levied in the North Industrial Corridor Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

BUDGET SUMMARY

The expenditures, revenues and the amount of 2011 tax to be levied (published below) establish the maximum limits of the 2011 budget for the Groundwater Contamination Project of the North Industrial Corridor Redevelopment District.

North Industrial Corridor Redevelopment District		Amount To
<u>Revenues:</u>	<u>2011 Proposed Budget</u>	<u>Be Levied</u>
Motor Vehicle Taxes	900	
Interest earnings	30,000	
Cost to be funded by a levy from the North Industrial Corridor Redevelopment District*	<u>1,165,300</u>	<u>\$ 1,165,300</u>
Total Revenues	\$1,196,200	
<u>Expenditures:</u>		
Personal services	0	
Contractuals	1,433,103	
Commodities	4,000	
Capital outlay	20,000	
Other	182,285	
Environmental remediation projects	<u>6,050,000</u>	
Total Expenditures	\$7,689,388	

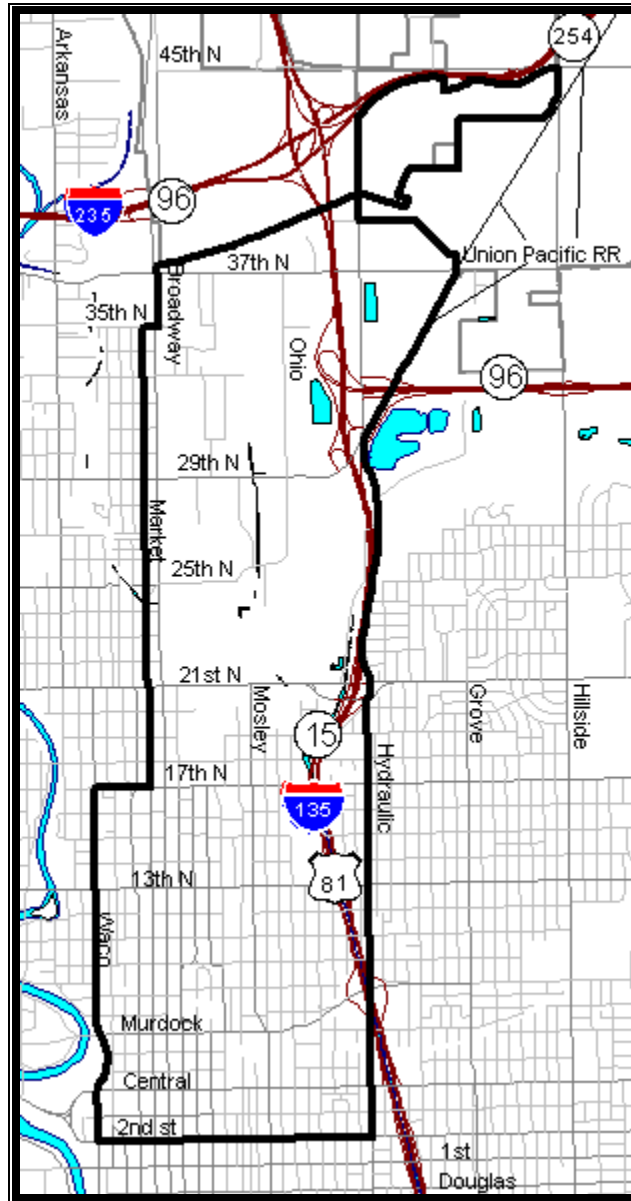
* The North Industrial Corridor Redevelopment District was formed under authority of Ordinance No. 43-009 and K.S.A. 12-1770 *et seq.*

K.S.A. 12-1771a(d) provides that the real property taxes produced by the environmental increment from a redevelopment district shall be allocated and paid by the County Treasurer to the Treasurer of the City and deposited in a special separate fund of the City to pay the direct cost of investigation and remediation of contamination in the redevelopment district. K.S.A. 12-1771a(b) provides that the environmental increment is set on a yearly basis and each year's increment shall be set in an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year. The mill levy rate for property located inside the Redevelopment District does not increase as a result of this levy. Therefore, an estimate of the mill levy rate is not included in this budget summary.

Karen Sublett, City Clerk

DESCRIPTION OF THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT (TIF DISTRICT #2)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of 37th Street North and Broadway Avenue, thence south along the center line of Broadway Avenue to the intersection of Broadway Avenue and 35th Street North, thence west along the center line of 35th Street North to the intersection of 35th Street North and Market Street, thence south along the center line of Market Street to the intersection of Market Street and 17th Street, thence west along the center line of 17th Street to the intersection of 17th Street and Waco Avenue, thence south along the center line of Waco Avenue to the intersection of Waco Avenue and Second Street, thence east along the center line of Second Street to the intersection of Second Street and Hydraulic Avenue, thence north along the center line of Hydraulic Avenue to the point where the center line of Hydraulic Avenue intersects the east right of way of Interstate Highway I-135, thence generally north along the east right of way of Interstate Highway I-135 to the point where the east right of way of Interstate Highway I-135 intersects the west right of way of the Union Pacific Railroad, thence generally northeast along the west right of way of the Union Pacific Railroad to the center line of 37th Street North, thence generally northwest and southeast along the boundary line of the corporate limits of the City of Wichita as defined by the boundary resolution of December 19, 1995, to the center line of Hydraulic Avenue, thence north along the center line of Hydraulic Avenue to the south right of way of State Highway K-254, thence generally east along the south right of way of State Highway K-254 to the center line of Hillside Avenue, thence generally northeast and southwest along the boundary line of the corporate limits of the City of Wichita to the intersection of 37th Street North and Broadway Avenue, being the point of beginning.



**THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT
(TAX INCREMENT FINANCING DISTRICT #2)**

ORDINANCE NO. 48-782

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE GILBERT AND MOSLEY SITE REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Gilbert and Mosley Site Redevelopment District under authority of K.S.A. 1990 Supp. 12-1770 *et seq.*, and Chapter 59 of the 1991 Sessions Laws of the State of Kansas; and,

WHEREAS, the City has by ordinance passed upon a 2/3 vote adopted a redevelopment plan for the Gilbert and Mosley Site Redevelopment District, the District being created in 1991; and,

WHEREAS, the City found that the conditions set forth in Section 1(a)(2) of Chapter 59 of the 1991 Session Laws of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Gilbert and Mosley Site Redevelopment District is set on a yearly basis as provided in Section 2(b) of Chapter 59 of the 1991 Session Laws of the State of Kansas; and,

WHEREAS, the boundaries of the Gilbert and Mosley Site Redevelopment District are described in "Exhibit A" attached hereto

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget requiring \$2,670,040 of increment funds in ad valorem taxes from the Gilbert and Mosley Site Redevelopment District (the current boundaries of the District are described in "Exhibit A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby sets the increment to be collected from ad valorem taxes produced from property located within the Gilbert and Mosley Site Redevelopment District at \$2,670,040 for the year beginning January 1, 2011, and ending December 31, 2011.

SECTION 3. The purpose of setting this increment is to pay the direct costs of investigation and remediation of the contaminated condition that exists in the Gilbert and Mosley Site Redevelopment District that are anticipated to be incurred between January 1, 2011, and December 31, 2011, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. The increment set herein does not exceed twenty percent (20%) of the amount of taxes that were produced in 1991, which was the year the Gilbert and Mosley Site Redevelopment District was first established.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment to be produced from ad valorem taxes that are to be levied in the Gilbert and Mosley Site Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

BUDGET SUMMARY

The expenditures, revenues and the amount of 2011 tax to be levied (published below) establish the maximum limits of the 2011 budget for the Groundwater Contamination Project of the Gilbert and Mosley Site Redevelopment District.

Gilbert and Mosley Site Redevelopment District		Amount To
<u>Revenues:</u>	<u>2011 Proposed Budget</u>	<u>Be Levied</u>
Contributions - potentially responsible parties	100,000	
Interest earnings	30,000	
KDHE reimbursements	120,000	
Motor Vehicle Tax	958	
Cost to be funded by a levy from the Gilbert and Mosley Site Redevelopment District*	<u>2,670,040</u>	<u>\$ 2,670,040</u>
Total Revenues	\$ 2,920,998	
<u>Expenditures:</u>		
Personal services	0	
Contractuals	1,192,439	
Commodities	46,160	
Capital outlay	0	
Debt service / temporary notes	1,372,678	
Reimbursements	182,285	
Environmental remediation projects	<u>3,400,000</u>	
Total Expenditures	\$ 6,193,562	

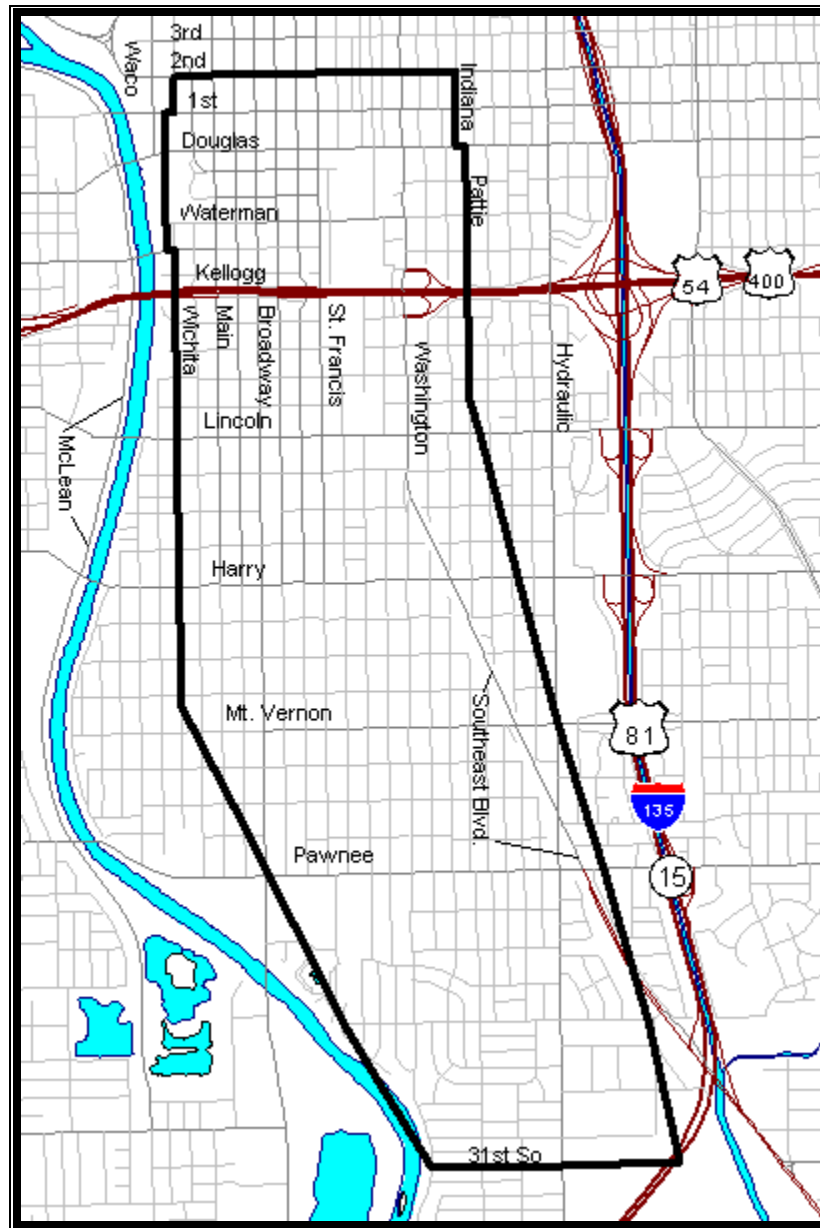
* The Gilbert and Mosley Site Redevelopment District was formed under authority of Ordinance No. 41-446 and K.S.A. 12-1770 *et seq.*

K.S.A. 12-1771a(d) provides that the real property taxes produced by the environmental increment from a redevelopment district shall be allocated and paid by the County Treasurer to the Treasurer of the City and deposited in a special separate fund of the City to pay the direct cost of investigation and remediation of contamination in the redevelopment district. K.S.A. 12-1771a(b) provides that the environmental increment is set on a yearly basis and each year's increment shall be set in an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year. The mill levy rate for property located inside the Redevelopment District does not increase as a result of this levy. Therefore, an estimate of the mill levy rate is not included in this budget summary.

Karen Sublett, City Clerk

DESCRIPTION OF THE GILBERT AND MOSLEY SITE REDEVELOPMENT DISTRICT (TIF DISTRICT #1)

Within the City of Wichita, Sedgwick County, Kansas, bounded on the north by Second Street; on the west by Wichita Street from Second Street to First Street; thence west on First Street to Civic Center Place; thence south on Civic Center Place and Civic Center Place extended to Lewis and Wichita Street; thence south along Wichita Street to Skinner Street; thence southeast including part of the 1900 block of South Wichita Street, the 2000 block of South Water Street, the 2100 block of South Main Street, the 2200 block of South Market Street, the 2300, 2400 and 2500 blocks of South Santa Fe Street; from Santa Fe Street and Greenway Boulevard to 31st Street South and Washington, 31st Street South being the south boundary; thence along 31st Street South to Interstate Highway I-135; thence northwesterly along the east boundary including the 3000 and 2900 blocks of South Madison, Northern and Wassall Streets, west of Madison, Wassall west of Southeast Boulevard, 1805 Glen Oaks Drive, the 2500 block of South Southeast Drive, the 1900 block of East Pawnee, Blake Street west of Minnesota Street, Stafford Street west of Minneapolis Street, the west side of Minneapolis between Stafford Street and Hodson Street, west of Kansas Street between Hodson Street and Mt. Vernon Street, Linwood Park, west of Hydraulic Avenue from Mt Vernon Street to Funston Street, the 1600 and 1700 blocks of South Greenwood, the 1400 and 1500 blocks of South Ellis, the 1200 and 1300 blocks of South Lulu, thence beginning at the 1000 block of Pattie, north along Pattie to Douglas, thence west along Douglas to Indiana; thence north along Indiana to Second Street being the north boundary.



**THE GILBERT & MOSLEY SITE REDEVELOPMENT DISTRICT
(TAX INCREMENT FINANCING DISTRICT #1)**

ORDINANCE NO. 48-783

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE EAST BANK REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the East Bank Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the East Bank Redevelopment District, the District being created in 1995; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the East Bank Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2002; and,

WHEREAS, the City has by ordinance expanded the District boundaries, the District boundaries being modified in 2004; and,

WHEREAS, the boundaries of the East Bank Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$1,627,029 of increment funds in ad valorem taxes from the East Bank Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the East Bank Redevelopment District at \$1,627,029 for the year beginning January 1, 2011, and ending December 31, 2011.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2011, and December 31, 2011, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of

properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the East Bank Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE EAST BANK REDEVELOPMENT DISTRICT (TIF DISTRICT #3)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of Main Street and Kellogg Avenue, thence north on Main Street to the intersection of Main Street and Douglas Avenue, thence west on Douglas Avenue to the intersection of Douglas Avenue and Waco Street, thence north on Waco to the intersection of Waco Street and Greenway Boulevard, thence north on Greenway Boulevard to Central Avenue, thence west on Central Avenue to Seneca Street, thence south on Seneca Street to the intersection of Seneca Street and McLean Boulevard, thence south on McLean Boulevard to Kellogg Avenue, thence east on Kellogg Avenue to Main Street, being the point of beginning, plus an approximately five-acre parcel located at the southwest corner of Maple Street and McLean Boulevard.



THE EAST BANK REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #3)

(Published in The Wichita Eagle on August 13, 2010) 037002

ORDINANCE NO. 48-784

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE NORTHEAST REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Northeast Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the Northeast Redevelopment District, the District being created in 1997; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Northeast Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2003; and,

WHEREAS, the boundaries of the Northeast Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$36,468 of increment funds in ad valorem taxes from the Northeast Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the Northeast Redevelopment District at \$36,468 for the year beginning January 1, 2011, and ending December 31, 2011.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2010, and December 31, 2010, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of

properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the Northeast Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August, 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE NORTHEAST REDEVELOPMENT DISTRICT (TIF DISTRICT #X)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of E 13th St N and N Grove Avenue, thence north along the center line of N Grove Avenue to the point adjacent to the northwest corner of Lot 11 in Marsh’s Replat of Getto’s 2nd Addition, thence east to the northwest corner of Lot 12 in March’s Replat of Getto’s 2nd Addition, thence south to the southwest corner of Lot 12, thence east to the center line of N Poplar Avenue, thence south to the center line of E 13th ST N, thence west to the point of the beginning.



THE NORHTEAST REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #X)

(Published in The Wichita Eagle on August 13, 2010) 037002

ORDINANCE NO. 48-785

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Old Town Cinema Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the Old Town Cinema Redevelopment District, the District being created in 1999; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Old Town Cinema Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a of the State of Kansas; and,

WHEREAS, the City has by ordinance reduced the District boundaries, the District boundaries being modified in 2001; and,

WHEREAS, the boundaries of the Old Town Cinema Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$339,038 of increment funds in ad valorem taxes from the Old Town Cinema Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the Old Town Cinema Redevelopment District at \$339,038 for the year beginning January 1, 2011, and ending December 31, 2011.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a, such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2011 and December 31, 2011 including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure

improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the Old Town Cinema Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August, 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT (TIF DISTRICT #7)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of East 3rd Street North and Washington Street, thence south along the centerline of Washington Street to the intersection of Washington Street and East 2nd Street North, thence west along the centerline of East 2nd Street North to the intersection of East 2nd Street North and Santa Fe Street, thence north along the centerline of Santa Fe Street to the intersection of Santa Fe Street and East 3rd Street North, thence east along the centerline of East 3rd Street North to the intersection of East 3rd Street North and Washington Street, being the point of beginning.

THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #7)



ORDINANCE NO. 48-786

AN ORDINANCE MAKING AND FIXING GENERAL TAX LEVY FOR THE DOWNTOWN WICHITA SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT FOR THE YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011.

WHEREAS, the City of Wichita, Kansas, has established the Downtown Wichita Self-Supported Municipal Improvement District ("District") by Ordinance No. 44-895 under the authority of K.S.A. 12-1794, et seq., effective March 24, 2001, and the governing body of the City serves as the governing body of the District; and,

WHEREAS, on February 12, 2008, the City of Wichita, Kansas established the term of the District Ordinance to the year 2012, and then automatically for one more year, for each year the City adopts a District budget; and

WHEREAS, pursuant to K.S.A. 12-17,102, the governing body of the District is authorized to levy taxes annually within the District to carry out the purposes of the District; and

WHEREAS, the Downtown Wichita Self-Supported Municipal Improvement District Advisory Board has submitted a proposed budget to the governing body of the District as required by law;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body of the Downtown Wichita Self-Supported Municipal Improvement District ("District") has adopted a budget requiring \$586,661 in general taxes to be levied for the fund of the District for the year 2011, which begins January 1, 2011, and ends December 31, 2011. The boundaries of the District are as follows:

Beginning at the east bank of the Arkansas River and the Kellogg Street Fly Over, eastward to Washington Street; North along Washington Street to Central Avenue; West along Central Avenue to its intersection with Greenway Boulevard; and along a line south through the War Memorial Park to the east bank of the Arkansas River; South along the east bank of the Arkansas River to the point of beginning at the Kellogg Street Fly Over, all in Wichita, Sedgwick County Kansas, EXCEPT AND EXCLUDING THEREFROM THE REAL PROPERTY DESCRIBED AS Lot 2, Emerson Addition to the City of Wichita, Sedgwick County, Kansas.

And as shown upon the map attached as Exhibit A and made a part of this ordinance.

SECTION 2. There is hereby levied by the governing body of the District on all taxable tangible property in the District, according to the estimated assessed valuation thereof, a mill

levy rate for the District, and said mill levy rate is subject to the actual determination of assessed valuation by the County Clerk. It is the intention of the City of Wichita to set a levy sufficient to raise the above amounts; PROVIDED, that said levy must remain within those limitations set by statute or ordinance.

SECTION 3. That in accordance with Section 2 hereof, there be and hereby is levied upon all the taxable property in the District, according to the assessed valuation thereof, the following amount for the use of the District, for the year 2011, which begins January 1, 2011, and ends December 31, 2011, to wit:

CALCULATION OF TAX DOLLARS TO BE LEVIED		
	<u>District</u>	<u>Mill Levy</u>
Assessed Valuation	\$98,598,496	
Taxes to be Levied:	\$586,661	5.950

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the property taxes required in this ordinance to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August, 2010.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

DESCRIPTION OF THE DOWNTOWN SELF-SUPPORTING MUNICIPAL IMPROVEMENT DISTRICT (SSMID)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the east bank of the Arkansas River and the Kellogg Street Fly Over, eastward to Washington Street; north along Washington Street to Central Avenue; west along Central Avenue to its intersection with Greenway Boulevard; and along a line south through the War Memorial Park to the east bank of the Arkansas River; south along the east bank of the Arkansas River to the point of beginning at the Kellogg Street Fly Over, all in Wichita, Sedgwick County, Kansas, EXCEPT AND EXCLUDING THEREFROM THE REAL PROPERTY DESCRIBED AS Lot 2, Emerson Addition to the City of Wichita, Sedgwick County, Kansas.



**THE DOWNTOWN SELF-SUPPORTING MUNICIPAL
IMPROVEMENT DISTRICT (SSMID)**

NOTICE OF BUDGET HEARING

The governing body of the City of Wichita, Kansas will meet on the 10th day of August, 2010 at 9:00 A.M., in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers related to the proposed 2011 budget and proposed tax levy, and for considering amendments relating to the 2010 adopted operating budget. Detailed budget information is available at the City of Wichita Department of Finance, 12th Floor, and will be available at this hearing

BUDGET SUMMARY

The "Proposed Budget 2011 Expenditures" and the "Amount of 2010 Ad Valorem Tax" establish the maximum limits of the 2011 budget. The "Est(imated) Tax Rate*" is subject to change depending on final assessed valuation.

Fund	2009		2010		Proposed Budget 2011		
	Prior Year Actual Expenditures	Actual Tax Rate*	Current Year Estimate of Expenditure	Actual Tax Rate*	Expenditures	Amount of 2010 Ad Valorem Tax	Est Tax Rate*
General Fund	198,595,309	23.034	204,903,624	23.619	225,401,506	76,910,920	24.642
Debt Service	73,758,933	9.022	86,036,711	8.523	105,668,794	23,408,490	7.500
Subtotal tax-supported funds	272,354,242	32.056	290,940,335	32.142	331,070,300	100,319,410	32.142
Tourism and Convention	6,581,389		6,835,580		7,126,215		
Special Alcohol Programs	1,690,512		1,886,397		2,170,000		
Special Parks and Recreation	1,866,879		1,724,474		1,792,976		
Ice Rink Management	0		117,450		200,000		
Landfill	1,615,704		832,584		3,132,584		
Landfill Post Closure	2,152,974		1,305,932		20,549,144		
Central Inspection	5,588,435		5,604,283		6,595,287		
Economic Development	2,780,779		2,649,709		6,658,322		
Downtown Parking	0		571,649		576,319		
Sales Tax Construction Pledge	20,632,667		31,693,190		27,690,576		
Homelessness Asst	207,071		382,736		382,736		
State Office Building	280,309		224,621		629,621		
TIF Districts**	6,694,700		8,683,961		17,508,950		
SSMID**	637,487		619,955		622,810		
City/County Operations	3,654,098		3,734,632		3,849,904		
Art Museum Board**	9,921		0		0		
Permanent Reserve	1,175,000		1,825,000		0		
Cemeteries	42,920		83,500		83,500		
Subtotal special revenue funds	55,610,846		68,775,653		99,568,944		
Airport Fund**	16,004,283		17,936,793		17,918,289		
Golf Fund**	4,128,400		5,562,704		5,672,858		
Transit Fund**	6,059,161		5,951,320		6,451,918		
Sewer Utility	35,677,833		40,170,126		44,703,110		
Water Utility	45,801,795		58,479,160		64,054,177		
Storm Water Utility	6,082,575		7,876,138		16,220,620		
Subtotal enterprise funds	113,754,047		135,976,240		155,020,971		
Information Technology	9,183,510		10,756,464		10,058,216		
Equipment Motor Pool	11,522,637		13,242,951		13,207,198		
Stationery Stores	1,245,699		0		0		
Self-Insurance	30,830,786		47,973,215		53,567,176		
Subtotal internal service funds	52,782,633		71,972,630		76,832,590		
TOTAL OPERATING FUNDS	494,501,768		567,664,858		662,492,806		
Less: Interfund transactions	100,471,540		120,048,283		130,732,002		
NET TOTAL	394,030,228		447,616,575		531,760,804	100,319,410	32.142
Expendable Trust Funds	59,530,333		73,633,507		77,991,411		
Total Tax Levied	100,840,350		101,298,570				
Assessed Valuation					3,121,131,936		
Outstanding Indebtedness, January 1							
	2008		2009		2010		
GO Bonds	448,456,736		432,681,285		466,110,861		
Revenue Bonds	299,896,435		314,496,640		431,182,854		
No-Fund Warrants	0		0		0		
Lease Purchase Principal	0		0		0		
Total	748,353,171		747,177,925		897,293,715		

* Tax Rates are expressed in mills.

** These funds are shown for information purposes only and are either certified separately or are not required to be certified.

**NOTICE OF BUDGET HEARING
AMENDING THE 2010 BUDGET**

The governing body of the *City of Wichita* will meet on the 10th day of August, 2010 at 9:00 a.m., in the City Council Room, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers relating to the proposed 2011 budget, the proposed tax levy, and for considering amendments relating to the 2010 adopted operating budget.

Detailed budget information is available at the City of Wichita Department of Finance, City Hall, 12th Floor, and will be available at this hearing.

Fund	Adopted Budget 2010			Proposed Amendment 2010 Budget
	Actual Tax Rate	Amount of Ad Valorem Tax	Expenditures	Expenditures
Downtown Parking			340,000	571,649
Special Reserve Fund			1,750,000	1,825,000
Cemetery Fund			53,630	83,500
Equipment Motor Pool			10,050,171	13,242,951

Clerk

NOTICE OF BUDGET HEARING

The governing body of the City of Wichita, Kansas will meet on the 10th day of August, 2010 at 9:00 A.M., in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers related to the proposed 2011 budget and proposed tax levy, and for considering amendments relating to the 2010 adopted operating budget. Detailed budget information is available at the City of Wichita Department of Finance, 12th Floor, and will be available at this hearing.

BUDGET SUMMARY

The "Proposed Budget 2011 Expenditures" and the "Amount of 2010 Ad Valorem Tax" establish the maximum limits of the 2011 budget. The "Est(imated) Tax Rate*" is subject to change depending on final assessed valuation.

Fund	2009		2010		Proposed Budget 2011		
	Prior Year Actual Expenditures	Actual Tax Rate*	Current Year Estimate of Expenditure	Actual Tax Rate*	Expenditures	Amount of 2010 Ad Valorem Tax	Est Tax Rate*
SSMID	637,487	5.9530	619,955	5.963	622,810	586,661	5.950
TOTAL OPERATING FUNDS	637,487		619,955		622,810		
Less: Interfund transactions	0		0		0		
NET TOTAL	637,487		619,955		622,810	586,661	5.593
Expendable Trust Funds	0		0		0		
Total Tax Levied	622,817		601,011				
Assessed Valuation	104,631,527		100,789,800		98,598,496		
Outstanding Indebtedness, January 1							
	2008		2009		2010		
GO Bonds	0		0		0		
Revenue Bonds	0		0		0		
No-Fund Warrants	0		0		0		
Lease Purchase Principal	0		0		0		
Total	0		0		0		

* Tax Rates are expressed in mills.

Clerk

NOTICE OF BUDGET HEARING

The governing body of the City of Wichita, Kansas will meet on the 10th day of August, 2010 at 9:00 A.M., in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers related to the proposed 2011 budget for Tax Increment Financing (TIF) Funds and the proposed tax increment. Detailed budget information is available at the City of Wichita Department of Finance, 12th Floor, and will be available at this hearing.

TAX INCREMENT FINANCING (TIF) DISTRICTS BUDGET SUMMARY

The "Proposed Budget 2011 Expenditures" and the "Amount of 2011 Tax Increment" establish the maximum limits of the 2011 budget.

Tax Increment Financing Fund	2009	2010	Proposed Budget 2011	
	Prior Year Actual Expenditures	Current Year Estimate of Expenditure	2011 Expenditures	Amount of 2011 Tax Increment*
Gilbert and Mosley	3,204,174	3,613,168	6,193,562	2,670,040
North Industrial Corridor	666,619	1,704,033	7,689,388	1,165,300
Total Environmental TIFs	3,870,793	5,317,201	13,882,950	3,835,340
East Bank	1,431,000	1,424,000	2,900,000	1,627,029
Old Town	808,427	1,319,760	0	0
21st & Grove	154,000	158,000	250,000	152,643
Old Town Cinema	366,775	430,000	440,000	339,038
Northeast Redevelopment	63,705	35,000	36,000	36,468
Total Economic Development TIFs	2,823,907	3,366,760	3,626,000	2,155,178
TOTAL ALL TIFs	6,694,700	8,683,961	17,508,950	5,990,518

*NOTE: The amount of the tax increment for the Economic Development TIFs is estimated and is dependent upon the incremental value of improvements since the base year when the TIF was created. The tax increment for Environmental TIFs is established through the budget process.

Clerk

**NOTICE OF BUDGET HEARING
AMENDING THE 2010 TIF BUDGETs**

The governing body of the *City of Wichita* will meet on the 10th day of August, 2010 at 9:00 a.m., in the City Council Room, City Hall, 455 N. Main, Wichita, Kansas for the purpose of hearing objections and answering questions of taxpayers relating to the proposed 2011 budget, the proposed tax levy, and for considering amendments relating to the 2010 adopted operating budget.

Detailed budget information is available at the City of Wichita Department of Finance, City Hall, 12th Floor, and will be available at this hearing.

Fund	2010 Adopted Budget		Proposed Amendment
	Amount of 2009 Tax Increment	Expenditures	2010 Budget Expenditures
Old Town	697,147	965,223	1,319,760

**City of Wichita
City Council Meeting
July 20, 2010**

TO: Mayor and City Council Members

SUBJECT: Proposed Amendments to Amusement Parks and Rides Licensing Ordinance
Chapter 3.20 of the Code of the City of Wichita

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendation: Approve first reading of the ordinance amending Chapter 3.20 of the City Code.

Background: Chapter 3.20 of the City Code sets forth licensing, inspection and insurance requirements for amusement parks and amusement ride businesses. The ordinance was last amended in 2005 to: (1) specifically include “portable” and “inflatable” type rides; (2) establish minimum requirements for ride safety inspections by nationally certified and qualified inspectors (NAARSO Level I or AIMS); and (3) increase minimum liability insurance requirements for amusement parks and amusement ride businesses. A recent inflatable ride accident in Wichita (March 2010) raised concerns about amusement park and amusement ride licensing, safety, operation and inspection requirements.

In April 2010, at the direction of City Manager, a multi-department staff team comprised of representatives from the Office of Central Inspection (OCI), Law Department and Wichita Police Department (WPD) developed recommendations for possible ordinance amendments. In early May 2010, after review of staff recommendations, the City Manager directed the staff team to obtain input from amusement park and amusement ride industry licensees and/or representatives. During May and June 2010, staff met with licensees and other industry representatives to obtain feedback and suggestions for ordinance amendments.

On June 22, 2010, proposed Amusement Park and Ride Ordinance amendments were presented to the City Council for review and comment during a Council workshop. Based on feedback provided during the Council workshop, the staff team made several minor additional changes to the proposed ordinance amendments, which are now being presented for public hearing and first reading.

Analysis: The proposed ordinance amendments address amusement park and amusement ride licensing, safety, operation, operator training, operator and/or patron accountability and ride inspection/certification concerns recently raised by City Council, industry professionals, staff and citizens. Proposed ordinance amendments include:

- expanded and/or clarified existing definitions for “amusement park”, “amusement ride”, “inflatable ride”, “temporary ride” and “qualified inspector” (AIMS certification is eliminated and higher level NAARSO II certification will be required for some ride types);
- new definitions for “amusement ride company” (specifically including non-profit enterprises such as schools and churches), “certificate of inspection” (to set forth minimum documentation requirements for required inspection certificates), “kiddie rides” (taken from national standards in order to define the threshold between NAARSO Level I or NAARSO Level II inspector certification requirements), “Level I” and “Level II qualified inspector” (NAARSO only), “licensee”, “operator”, “parent or guardian”, “patron”, “renter”, “serious injury” and “self-inspection”;
- a new “Exceptions” section to better define what types of rides require licensing and inspection;
- new license application and approval requirements, including more specific documentation for licensed rides (manufacturer, name, type, serial number), additional ride inspection information/verification, additional inspection certificate documentation from “qualified inspectors” and additional insurance documentation;

- new language to require carnivals and/or circuses to obtain a separate “Community Event” license per Chapter 3.11, when applicable;
- a new section on reasons for license denial, with a two-year “look-back” on ordinance violations;
- additional requirements for ride safety inspections by appropriately qualified inspectors (NAARSO Level I or Level II, depending on ride type - AIMS certification is eliminated);
- new requirements for ride inspections during the annual license period and prior to initial ride use;
- new requirements for *on-site* documentation of current ride safety inspections by appropriately qualified inspectors (with current City ride inspection certificate verifications), ride manufacturer installation/safety instructions, and manufacturer recommendations for ride set-up, use and operation;
- new requirements for *on-site* posting of ride safety instructions on or near each ride (for patrons);
- new requirements for licensees and/or operators to: (1) install, use and operate rides in accordance with manufacturer’s instructions/recommendations; (2) post safety instructions on/near rides; (3) provide (and document) ride-specific operator training; (4) provide re-training of operators at least once a year; (5) require that “serious injuries” sustained on rides be reported to the City (911) within one hour, discontinuing use of a such ride until re-inspected by a qualified inspector and deemed safe to operate; and (6) provide notification of any new/used ride purchases to OCI (with appropriate inspection documentation) for City approval/verification prior to first use of such ride;
- new requirements for licensees to provide to renters amusement ride company information, (current license information, contacts/contact numbers), ride use and operating instructions, written ride safety and emergency procedures, written ride-specific information (serial number, name, manufacturer), written information on most recent ride inspection and a copy of current City ride inspection verification;
- new “patron” and “renter” responsibilities/duties regarding general ride safety, operation and use;
- enhanced enforcement provisions including: extension of enforcement authority to both WPD and OCI; new requirements for on-site rental agreement information, ride information, operating and safety instructions, operator training verification, and inspection documentation (to facilitate enforcement action); new language to allow notices/or and citations to be issued to accountable parties including licensees, operators, patrons and/or renters of rides; increased penalties (fines and/or jail); additional causes for license suspension or revocation; and new language to allow initiation of license suspension or revocation by either the Police Chief or Superintendent of OCI.

Financial Considerations: The proposed ordinance amendments add a non-fundable license application fee of \$25, but do not increase other amusement park or amusement ride license fees. There may be some minimal increase to indirect costs associated with increased license and ride inspection/certification review by OCI, and to possible increased code enforcement actions by OCI and/or WPD.

Goal Impact: This item impacts the Provide and Safe and Secure Community goal indicator by better ensuring amusement park and amusement ride safety in Wichita.

Legal Considerations: The recommended ordinance has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve first reading of the Amusement Park and Ride Ordinance adopting amendments to Chapter 3.20 of the City Code relating to amusement park and ride licensing, inspection, operation and enforcement.

Attachments: Delineated ordinance amendments.

First Published in The Wichita Eagle on _____

DELINEATED

06/23/2010

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100, AND CREATING SECTIONS 3.20.015, 3.20.022, 3.20.023, 3.20.065, 3.20.067, AND 3.20.095 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO AMUSEMENT PARKS AND RIDES AND REPEALING THE ORIGINALS OF SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.20.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Definitions. 'Amusement park,' ~~for the purpose of this chapter, shall be construed to include and means a permanent installation of~~ inflatables, kiddie riding and rides or amusement devices of the type commonly employed in the operation of carnivals such as merry go rounds, ferris wheels, miniature trains, pony rides, carousels, parachute towers, bungee jumping, reverse bungee jumping, roller coasters, cranes or other lifting devices, when used as part of an amusement ride, inflatable equipment or other devices that do not have rigid structures or frames and which are inflated or otherwise supported by air pressure and other similar devices rides which are permanently attached to the real estate where such rides are operated.

‘Amusement ride’ means any inflatable or mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include, but not be limited to:

(1) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;

(2) Equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways;

(3) Equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride;

(4) Kiddie rides; and

(5) Temporary amusement rides.

‘Amusement Ride Company’ means in individual, partnership, business, corporation or non-profit entity which:

(1) operates an amusement park; or

(2) operates, leases or rents amusement, kiddie or temporary amusement rides.

‘Carnival’ means an amusement enterprise, including a circus, usually consisting of one or more amusement rides, shows, or concessions which is erected or operated within the City on a temporary basis.

‘Certificate of inspection’ means a certificate, signed and dated by the appropriate, qualified inspector, showing that an amusement ride or temporary amusement ride has satisfactorily passed inspection by such inspector.

‘City’ means the City of Wichita.

‘Chief of Police’ means the Chief of Police of Wichita, Kansas or his or her designee.

‘Inflatable’ means any structure fabricated from flexible material, kept inflated by one or more blowers which rely on air-pressure to maintain their shape and are used by participants to bounce, slide, run, jump or climb. Such term includes, but is not limited to: bounce houses, mazes, obstacle courses, inflatable slides, moon walks, inflatable climbing walls, or other similar types of amusement apparatus.

‘Kiddie ride’ means an amusement ride designed primarily for use by children up to twelve (12) years of age that requires simple reassembly procedures prior to operation.

‘Level I Qualified Inspector’ means a person who holds a current level I or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Level II Qualified Inspector’ means a person who holds a current level II or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Licensee’ means any person to whom a current license has been issued under this chapter authorizing such person to conduct the business of an Amusement Ride Company.

‘Nondestructive testing’ means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

- (1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;
- (2) assess integrity, properties and composition; and
- (3) measure geometrical characters.

‘Operator’ means a person employed by, under the control or direction of, or compensated by, a licensee who is actually engaged in or directly controlling the operations of an amusement ride.

‘Parent or guardian’ means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

‘Patron’ means any individual who is:

- (1) waiting in the immediate vicinity of an amusement ride to get into or on the ride;
- (2) getting on or into an amusement ride;

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- (3) using an amusement ride;
- (4) getting off an amusement ride; or
- (5) leaving an amusement ride and still in the immediate vicinity of the ride.

'Patron' does not include employees, agents or servants of the licensee while engaged in the duties of their employment.

'Person' means any individual, association, partnership, corporation, limited liability company, government or other entity.

'Renter' means a person who rents, leases or enters into a contract for the rental or use of an amusement ride.

'Serious injury' means an injury that results in:

- (1) death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;
- (2) a compound fracture; or
- (3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

'Self-inspection' means that the licensee causes the inspection of an amusement ride by an appropriate level qualified inspector without using the services of a third-party inspector.

'Sign' means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including

placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

‘Superintendent of Central Inspection’ means the Superintendent of Central Inspection for the City of Wichita, Kansas or his or her designee.

‘Portable Temporary amusement rides,’ for the purpose of this chapter, shall be construed to include and mean the operation, leasing or renting of merry-go-rounds, Ferris wheels, miniature trains, pony rides, parachute towers, bungee jumping, reverse bungee jumping, roller coasters, cranes or other lifting devices, when used as part of an amusement ride, inflatable equipment or other devices that do not have rigid structures or frames and which are inflated or otherwise supported by air pressure or other such amusement riding devices when portable or not part of an amusement park amusement rides which can be, or are, moved from location to location.

~~Amusement park and portable amusement park rides shall not include:~~

- ~~a. Games, concessions and associated structures;~~
- ~~b. Any single passenger coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;~~
- ~~c. Non-mechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features; rider propelled merry go rounds, climbers, slides, trampolines and physical fitness devices; and~~

~~d. Portable amusement rides which are used solely for personal use.”~~

SECTION 2. Section 3.20.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Exceptions. The provisions of this chapter shall not apply to:

(a) Games, concessions and associated structures;

(b) Any coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;

(c) Non-mechanized playground equipment, including, but not limited to: swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices;

(d) Amusement rides which are used solely for private residential use. As used in this section, ‘private residential use’ shall mean use by the owner of the ride, his or her family and guests for their personal enjoyment for which no admission fee is charged;

(e) Advertising inflatables or inflatable target games that do not require participants to enter into or climb on;

(f) Boats, air mattresses, or other flotation devices.”

SECTION 3. Section 3.20.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License required--Fee. (a) It is unlawful for any person, firm, partnership or corporation to engage in the business and ~~or occupation of~~

~~operating an amusement park or the operation, leasing or renting of portable amusement rides~~ of an Amusement Ride Company without having first obtained a license therefore from the ~~e~~City ~~T~~Treasurer or his/ or/her designee and paying a license fee as follows:

(1) A non-refundable application fee of twenty-five dollars (\$25.00) shall accompany the license application.

~~(1)~~ (2) Persons engaged in the operation of amusement parks shall pay an annual license fee of six hundred dollars, ~~which shall not be prorated and which shall be paid on May first of each year.~~

~~(2)~~ (3) Persons engaged in the operation of ~~portable~~ temporary amusement rides, when not part of an amusement park as provided for in subsection ~~(1)~~ (2) of this section, shall pay a license fee as follows:

For twenty or more ~~portable~~ temporary amusement rides the annual license fee shall be six hundred dollars, ~~which shall not be prorated and which shall be paid on May first of each year.~~

For persons who own, operate, rent, or lease less than twenty ~~portable~~ temporary amusement rides, the annual license fee shall be thirty dollars per ride, ~~which shall not be prorated and which shall be paid on May first of each year.~~

(b) A license under this section is not transferable to another person or location. A change in ownership shall require the new owner to secure a new license.

(c) Licenses shall be issued for a period of one year.

(d) In addition to the requirements set forth in this chapter, carnivals and circuses are required, when applicable, to obtain a community event license as required by Chapter 3.11 of the Code of the City of Wichita.”

SECTION 4. Section 3.20.022 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“License – Application. A person desiring to operate an Amusement Ride Company within the City of Wichita shall file with the City Treasurer a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant’s authorized agent. The following information and documentation is required and shall be submitted with the application:

- (a) Business name, address and telephone number of the licensee;
- (b) A list of the name, manufacturer, type and serial or other identification number (if available) of amusement rides which are used by the licensee, or rented or leased to other persons by the licensee or applicant;
- (c) The name, address and telephone number of the owner of the business;
- (d) Copies of ride inspections as required by Section 3.20.060 of the Code of the City of Wichita;
- (e) Name, address and telephone number of individual inspecting the rides as required by Section 3.20.060 of the Code of the City of Wichita;
- (f) Copy of ride inspector’s certification;
- (g) Proof of liability insurance as required by this chapter;
- (h) All applicable fees as required by this chapter.”

SECTION 5. Section 3.20.023 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Denial of License. An application for an Amusement Ride Company license or renewal of such license may be denied if:

(a) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(b) The application is incomplete or does not contain the information required by this chapter;

(c) The applicant fails to comply with any conditions of approval including, but not limited to:

(1) remittance of all application and licensing fees;

(2) proof of liability insurance required;

(3) proof of annual inspection of rides;

(4) proof of certification of ride inspector;

(5) obtaining all other permits and licenses required by the City Code.

(d) The applicant, in the last two years, has violated the requirements of this chapter or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, *et seq.* and amendments thereto.

For the purposes of this section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has previously violated the terms and conditions of this chapter. A certified copy of conviction from any local or state court for any violation contained within subsection (d) is

prima facie evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 6. Section 3.20.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Installation and Operation regulations of portable temporary amusement rides. All ~~portable~~ temporary amusement rides shall conform to the following regulations and requirements:

~~HEALTH AND SANITATION. Such establishment shall be operated in full compliance with all requirements relating to health and sanitation as promulgated by the ordinances of the City of Wichita.~~

~~COMPLIANCE WITH BUILDING CODE AND ELECTRICAL CODE.~~

(a) All improvements, ~~riding devices or constructions~~ and temporary amusement rides installed, erected or operated ~~in connection with portable amusement rides~~ shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

~~MUSIC PRODUCING DEVICES.~~ (b) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a ~~portable~~ temporary amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise

produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the eCode of the City of Wichita regulating noise.

~~CLOSING HOURS.~~ (c) No ~~portable~~ temporary amusement ~~device~~ ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of ~~portable~~ temporary amusement rides which are operated completely within an enclosed building.”

SECTION 7. Section 3.20.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Installation and operation regulations of amusement parks. All amusement parks ~~installed and operated~~ shall conform to the following regulations and requirements:

~~ZONING RESTRICTIONS.~~ (a) No amusement park or carnival shall be installed or operated in ~~use~~ zoning districts or zoning overlays other than ~~GC, CBD, LI or GI of the~~ those zoning districts or zoning overlays where an amusement park or carnival is allowed by the Wichita-Sedgwick County ~~u~~Unified ~~z~~Zoning eCode, relating to zoning within the corporate city limits of the eCity of Wichita.

~~FENCES.~~ (b) Unless other fence screening is required by the Wichita-Sedgwick County ~~u~~Unified ~~z~~Zoning eCode, the entire area within which such amusement park is installed and operated shall be enclosed by a wire fence of a

minimum height of five feet or other mode of screening approved by the Superintendent of Central Inspection.

~~TOILET FACILITIES.~~ (c) Adequate toilet facilities shall be provided in connection with such amusement park, ~~the same to~~ and shall be constructed and maintained in accordance with the ordinances of the City of Wichita.

~~HEALTH AND SANITATION.~~ (d) Such ~~establishment~~ amusement parks shall be operated in full compliance with all requirements ~~relating to~~ of the health and sanitation as ~~promulgated by the~~ ordinances of the City ~~and the department of environmental health.~~

~~COMPLIANCE WITH BUILDING CODE AND ELECTRICAL CODE.~~

(e) All improvements, ~~riding devices~~ amusement rides or ~~constructions~~ buildings installed, erected or operated in connection with amusement parks shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

~~MUSIC PRODUCING DEVICES.~~ (f) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with an amusement park, or any ~~riding device~~ amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices

shall be kept in compliance with Chapter 7.41 of the code of the City of Wichita regulating noise.

~~CLOSING HOURS.~~ (g) Amusement parks shall close and cease operations promptly at 12:00 midnight.

No ~~riding device~~ amusement ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of amusement park attractions and ~~portable~~ amusement rides which are operated completely within an enclosed building.”

SECTION 8. Section 3.20.040 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Liability insurance. No person, firm, partnership, non-profit organization, or corporation within the corporate limits of the ~~e~~City shall be licensed to ~~engage in the business or occupation of operating an amusement park or the operation, renting or leasing of portable amusement rides~~ as an Amusement Ride Company until a certificate of commercial general liability insurance with coverage of not less than one million dollars per occurrence is deposited and filed with the ~~e~~City ~~t~~Treasurer or his or her designee. The requirement of providing proof of insurance shall not apply if the owner of such amusement ride or park is the state, ~~a not-for-profit organization~~ City or any subdivision of the State of Kansas.

The City will only accept coverage from an insurance carrier who offers proof that it: ~~a. Is authorized, legally recognized or is listed pursuant to K.S.A. 40-246e and amendments thereto,~~ to do business in the State of Kansas;

~~b. Carries a Best's policyholder rating of A minus or better; and~~

~~c. Carries at least a Class VIII financial rating or is a company mutually agreed upon by the city and the licensee."~~

SECTION 9. Section 3.20.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Inspections. (a) The licensee shall, as part of the license application or renewal, provide the ~~e~~City ~~t~~Treasurer or his or her designee with a certificate of inspection by the appropriate, qualified inspector for the operation of any amusement ~~park or portable amusement ride.~~

Each certificate shall be in a format approved by the Superintendent of Central Inspection and shall include, at a minimum, the following information:

~~a. 1. State t~~1. State ~~The date of inspection and the items inspected,~~
~~including, but not limited to, any and all rides, attractions, structures, related~~
~~utilities, and support equipment and supplies;~~

~~b. Specifically state any and all known defects or dangerous~~
~~conditions, including defects or conditions which could be reasonably discovered~~
~~pursuant to an inspection, concerning any and all rides, attractions, structures,~~
~~related utilities, and support equipment and supplies.~~

2. Name, manufacturer, type and serial or other identification
number, if applicable, of the amusement ride inspected;

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3. The items inspected including, but not limited to, any and all rides, attractions, structures, related utilities, support equipment and supplies;

4. The printed name, address, certification level, date of certification, and signature of the qualified inspector;

5. Specify any and all known defects or dangerous conditions, including defects or conditions which could be reasonably discovered, pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, support equipment and supplies;

6. The results of the nondestructive testing of the amusement ride which has been conducted in accordance with the recommendation of the manufacturer of the amusement ride and in conformance with standards at least equivalent to the current standards of the American Society for Testing and Materials.

(b) (1) Such inspections for inflatables or kiddie rides shall be performed by a Level I qualified inspector certified NAARSO Level 1 certified AIMS or an amusement ride inspector certified by the State of Kansas or any other state, within three months of the date of submission of an application for a new amusement park license. Thereafter, for the renewal of licenses, a valid inspection shall be an inspection performed by the Level 1 certified NAARSO, Level 1 certified AIMS or an amusement ride inspector certified by the State of Kansas or any other state during the first quarter of the calendar year during which

~~the license will be renewed. Further, the existence of a defective or otherwise dangerous condition may be sufficient reason to deny the license requested.~~

(2) Inspections for amusement rides, other than inflatables or kiddie rides shall be performed by a Level II qualified inspector.

(c) No amusement ride shall be operated in the City unless such ride has a valid certificate of inspection.

(1) Amusement Park rides erected at a permanent location in the City shall be inspected by a Level II qualified inspector at least once every twelve (12) months.

(2) Inflatable or kiddie rides shall be inspected by a Level I qualified inspector at least once every twelve (12) months.

(3) Temporary amusement rides, with the exception of kiddie rides and inflatables, shall have been self-inspected by a Level II qualified inspector within the preceding thirty (30) days prior to the ride being erected.

(4) The certificate of inspection required by this subsection shall be signed and dated by the appropriate level qualified inspector. A copy of such inspection shall be submitted for review by the Superintendent of Central Inspection.

(5) An inspection verification certificate, issued by the City, shall be posted in plain view on or near the amusement ride in a location where it can easily be seen.”

SECTION 10. Section 3.20.065 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Operating Requirements. (a) The licensee shall retain, at all times, current maintenance and inspection records for each ride. These records shall be retained in such a way that segregates the records by ride. Such records shall be available to any officer authorized to enforce the provisions of this chapter and any person contracting with the licensee for the amusement ride’s operation.

(b) No amusement ride shall be operated in the City unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to the current standard of the American Society for Testing and Materials.

(c) Operators of amusement rides must have satisfactorily completed training that includes, the following:

(1) instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;

(2) demonstration of physical operation of the ride;

(3) supervised observation of the operator’s physical operation of the ride;

(4) the manufacturer’s recommendations for operation, set-up, use and maintenance of the amusement ride.

(d) Such training shall occur at least once every twelve months and may be conducted by the licensee or his or her designee.

(e) At the time of renting or leasing a temporary amusement ride, the licensee shall provide, in writing, to the individual renting the ride, the following:

(1) Instructions on operating procedures for the ride;

(2) General safety and emergency procedures;

(3) Name, license number, address and phone number of the amusement ride company;

(4) The name, manufacturer, serial number or other identification number of the amusement ride;

(5) Date of last inspection;

(6) Copy of inspection verification for the amusement ride issued by the City of Wichita.

(f) No amusement ride shall be operated in the City unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of training, signed and dated by the trainer, is available to any official designated to enforce this chapter and any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

(g) No amusement ride shall be operated in the City unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

(h) All amusement rides shall be operated in accordance with the manufacturer's instructions and recommendations for the operation, set-up, use and maintenance of such ride.

(i) The licensee or his or her agent shall contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

(1) the name, address and phone number of the injured person;

(2) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;

(3) the cause of the injury, if known; and

(4) the names, address and phone numbers of any witnesses to the incident.

(j) Whenever a serious injury results from the operation of an amusement ride:

(1) operation of the ride shall immediately be discontinued;

(2) operation of the ride shall not be resumed until it has been inspected and the appropriate level qualified inspector has approved resumption of operation; and

(3) the licensee, within thirty (30) days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

(k) During the period of the license, it shall be the responsibility of the licensee to notify the Superintendent of Central Inspection of the purchase of any additional amusement rides.

(l) Prior to the use of a new amusement ride, the licensee shall submit to the Superintendent of Central Inspection proof of purchase of such amusement ride.

(m) Prior to the use of a used amusement ride, the licensee shall submit to the Superintendent of Central Inspection a copy of an inspection by the appropriate level qualified inspector.

(n) Upon receipt of the proof of purchase or inspection, the Superintendent of Central Inspection will issue an inspection verification for such amusement ride.”

SECTION 11. Section 3.20.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Patron’s and Renter’s Responsibility. (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

(b) Each patron, or parent of a minor patron, of an amusement ride has a duty to:

(1) exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;

(2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;

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(3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;

(4) engage all safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee;

(6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee; and

(7) any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this section.

(c) Each renter of an amusement ride has a duty to:

(1) operate any and all rented amusement rides in accordance with written and oral instructions regarding the operation, set-up and use of such ride as provided by the Amusement Ride Company;

(2) comply with any and all written or oral safety and emergency procedures as provided by the Amusement Ride Company;

(3) engage all safety devices that are provided for the amusement ride;

(4) ensure that patrons do not disconnect or disable safety devices of the amusement ride;

(5) have available on the premises where the amusement ride is operated, for review by any official designated to enforce this code, the documents provided to the renter from the Amusement Ride Company pursuant to Section 3.20.065(e);

(6) whenever a serious injury results from the operation of an amusement ride, the renter shall:

a. contact or call the Emergency Communications Center (911) to report any serious injury. Such notification shall include:

1. the name, address and phone number of the injured person;

2. a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;

3. the cause of the injury, if known; and

4. the names, address and phone number of any witnesses to the incident.

b. contact the Amusement Ride Company from which the ride was rented or leased;

c. immediately discontinue use of the ride.

(7) take necessary steps to reasonably ensure that patrons comply with safety, operation and use requirements of the amusement ride.”

SECTION 12. Section 3.20.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Enforcement and Inspection. The ~~s~~Superintendent of ~~e~~Central Inspection, or his/or her designee, and the ~~director of environmental health~~ Chief of Police, or his/or her designee, is authorized to inspect and approve the licensee's premises and amusement ~~devices~~ rides to ensure compliance with all state ~~and federal~~ laws and the ordinances of the City of Wichita governing public health, safety and welfare.”

SECTION 13. Section 3.20.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Compliance. All licensees shall comply with all ordinances and regulations of the City of Wichita. A violation of the provisions of this chapter or any ordinances of the City of Wichita shall constitute grounds for revocation or suspension of the license ~~as provided.~~”

SECTION 14. Section 3.20.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Suspension or revocation of license--Notice of hearing. (a) Any license issued under this chapter may be suspended for a period not to exceed thirty days or revoked ~~for a period not to exceed thirty days~~ by the ~~e~~Chief of Police or Superintendent of Central Inspection or ~~his/her~~ his or her designee upon five days' written notice, if the licensee:

- (1) has failed to pay the annual license fee;
- (2) violated any provision of this chapter;

(3) becomes ineligible for a license; or

(4) ~~said~~ the licensee or applicant has given a false statement as to a material fact submitted to the ~~e~~City ~~€~~Treasurer during the application process;

(5) has failed to report a serious accident to an officer authorized to enforce the provisions of this chapter;

(6) has failed to maintain sufficient inspection and maintenance records or;

(7) has failed to permit the inspection of the premises and/or inspection and maintenance records during business hours by any official authorized to enforce the provisions of this chapter . The ~~cause~~ specific reasons for such ~~the~~ revocation or suspension shall be set forth in the notice, ~~and the licensee may appeal such an order of suspension in writing to the city council within seven days from the date of such order.~~

(b) ~~The city council, upon five days' written notice to the licensee, may permanently revoke or cause to be suspended such license for any of the reasons enumerated in subsection (a) of this section. Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, manager, operator or agent, then in the absence of proof of knowledge by the licensee, there shall be no revocation, but there may be a suspension of not more than thirty days. In the event any licensee is subjected to more than two such suspensions in any twelve month period, his or her license may be revoked on the third such violation.~~

~~(c) An appeal taken from an order of suspension or revocation shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting for or on his or her behalf for a period of three years.~~

~~(d)~~ (b) For the purposes of subsections (a) ~~and (b)~~ of this section, written notice shall be deemed sufficient upon personal service or the mailing of the notice to the most recent address on the application of the licensee or applicant on file ~~in~~ with the ~~office of the eCity t~~Treasurer.

(c) For purposes of this Section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has violated the terms and conditions of this chapter or, the Amusement Ride Act, K.S.A. §44-601 et. seq. A certified copy of conviction from any local or state court for such violation is *prima facie* evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

~~(e) Within thirty days after the order revoking or suspending any license, the licensee may appeal from such order to the district court of the county in the manner as provided by law; provided that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of such appeal.”~~

SECTION 15. Section 3.20.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Appeal Procedure. (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of an amusement ride license may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Chief of Police or Superintendent of Central Inspection or his or her designee. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;
- (3) the date of the denial, suspension or revocation of the license or application; and
- (4) the factual basis for the appeal.

(b) The notice of appeal shall be accompanied by a fee of \$100.00. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Chief of Police or Superintendent of Central Inspection.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such appeal to the District Court shall not stay the denial, revocation or suspension of the license by the City Council. The decision of the City Council shall become effective immediately.

(e) In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting on his or her behalf for a period of two years from the date of the revocation."

SECTION 16. Section 3.20.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Penalty. (a) With the exception of violations of Section 3.20.067, Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed ~~five hundred~~ one thousand dollars (\$1,000.00) or by imprisonment for not more than ~~ninety days~~ one year, or by both such fine and imprisonment.

(b) Any person who violates the provisions of Section 3.20.067 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

(c) Each day a violation continues shall constitute a separate offense."

SECTION 17. The originals of Sections 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.080, 3.20.090 and 3.20.100 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 18. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2010.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

06/23/2010

ORDINANCE NO. 48-776

AN ORDINANCE AMENDING SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100, AND CREATING SECTIONS 3.20.015, 3.20.022, 3.20.023, 3.20.065, 3.20.067, AND 3.20.095 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO AMUSEMENT PARKS AND RIDES AND REPEALING THE ORIGINALS OF SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.20.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Definitions. 'Amusement park,' means inflatables, kiddie rides or amusement rides which are permanently attached to the real estate where such rides are operated.

'Amusement ride' means any inflatable or mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include, but not be limited to:

- (1) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;

(2) Equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways;

(3) Equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride;

(4) Kiddie rides; and

(5) Temporary amusement rides.

‘Amusement Ride Company’ means in individual, partnership, business, corporation or non-profit entity which:

(1) operates an amusement park; or

(2) operates, leases or rents amusement, kiddie or temporary amusement rides.

‘Carnival’ means an amusement enterprise, including a circus, usually consisting of one or more amusement rides, shows, or concessions which is erected or operated within the City on a temporary basis.

‘Certificate of inspection’ means a certificate, signed and dated by the appropriate, qualified inspector, showing that an amusement ride or temporary amusement ride has satisfactorily passed inspection by such inspector.

‘City’ means the City of Wichita.

‘Chief of Police’ means the Chief of Police of Wichita, Kansas or his or her designee.

‘Inflatable’ means any structure fabricated from flexible material, kept inflated by one or more blowers which rely on air-pressure to maintain their shape

and are used by participants to bounce, slide, run, jump or climb. Such term includes, but is not limited to: bounce houses, mazes, obstacle courses, inflatable slides, moon walks, inflatable climbing walls, or other similar types of amusement apparatus.

‘Kiddie ride’ means an amusement ride designed primarily for use by children up to twelve (12) years of age that requires simple reassembly procedures prior to operation.

‘Level I Qualified Inspector’ means a person who holds a current level I or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Level II Qualified Inspector’ means a person who holds a current level II or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Licensee’ means any person to whom a current license has been issued under this chapter authorizing such person to conduct the business of an Amusement Ride Company.

‘Nondestructive testing’ means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

- (1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;

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- (2) assess integrity, properties and composition; and
- (3) measure geometrical characters.

‘Operator’ means a person employed by, under the control or direction of, or compensated by, a licensee who is actually engaged in or directly controlling the operations of an amusement ride.

‘Parent or guardian’ means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

‘Patron’ means any individual who is:

- (1) waiting in the immediate vicinity of an amusement ride to get into or on the ride;
- (2) getting on or into an amusement ride;
- (3) using an amusement ride;
- (4) getting off an amusement ride; or
- (5) leaving an amusement ride and still in the immediate vicinity of the ride.

‘Patron’ does not include employees, agents or servants of the licensee while engaged in the duties of their employment.

‘Person’ means any individual, association, partnership, corporation, limited liability company, government or other entity.

‘Renter’ means a person who rents, leases or enters into a contract for the rental or use of an amusement ride.

‘Serious injury’ means an injury that results in:

- (1) death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;
- (2) a compound fracture; or
- (3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

‘Self-inspection’ means that the licensee causes the inspection of an amusement ride by an appropriate level qualified inspector without using the services of a third-party inspector.

‘Sign’ means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

‘Superintendent of Central Inspection’ means the Superintendent of Central Inspection for the City of Wichita, Kansas or his or her designee.

‘Temporary amusement rides,’ for the purpose of this chapter, shall be construed to include and mean the operation, leasing or renting of amusement rides which can be, or are, moved from location to location.”

SECTION 2. Section 3.20.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“**Exceptions.** The provisions of this chapter shall not apply to:

- (a) Games, concessions and associated structures;

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(b) Any coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;

(c) Non-mechanized playground equipment, including, but not limited to: swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices;

(d) Amusement rides which are used solely for private residential use. As used in this section, 'private residential use' shall mean use by the owner of the ride, his or her family and guests for their personal enjoyment for which no admission fee is charged;

(e) Advertising inflatables or inflatable target games that do not require participants to enter into or climb on;

(f) Boats, air mattresses, or other flotation devices.”

SECTION 3. Section 3.20.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License required--Fee. (a) It is unlawful for any person, firm, partnership or corporation to engage in the business of an Amusement Ride Company without having first obtained a license therefore from the City Treasurer or his or her designee and paying a license fee as follows:

(1) A non-refundable application fee of twenty-five dollars (\$25.00) shall accompany the license application.

(2) Persons engaged in the operation of amusement parks shall pay an annual license fee of six hundred dollars.

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(3) Persons engaged in the operation of temporary amusement rides, when not part of an amusement park as provided for in subsection (2) of this section, shall pay a license fee as follows:

For twenty or more temporary amusement rides the annual license fee shall be six hundred dollars.

For persons who own, operate, rent, or lease less than twenty temporary amusement rides, the annual license fee shall be thirty dollars per ride.

(b) A license under this section is not transferable to another person or location. A change in ownership shall require the new owner to secure a new license.

(c) Licenses shall be issued for a period of one year.

(d) In addition to the requirements set forth in this chapter, carnivals and circuses are required, when applicable, to obtain a community event license as required by Chapter 3.11 of the Code of the City of Wichita.”

SECTION 4. Section 3.20.022 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“License – Application. A person desiring to operate an Amusement Ride Company within the City of Wichita shall file with the City Treasurer a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant’s authorized agent. The following information and documentation is required and shall be submitted with the application:

(a) Business name, address and telephone number of the licensee;

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(b) A list of the name, manufacturer, type and serial or other identification number (if available) of amusement rides which are used by the licensee, or rented or leased to other persons by the licensee or applicant;

(c) The name, address and telephone number of the owner of the business;

(d) Copies of ride inspections as required by Section 3.20.060 of the Code of the City of Wichita;

(e) Name, address and telephone number of individual inspecting the rides as required by Section 3.20.060 of the Code of the City of Wichita;

(f) Copy of ride inspector's certification;

(g) Proof of liability insurance as required by this chapter;

(h) All applicable fees as required by this chapter."

SECTION 5. Section 3.20.023 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Denial of License. An application for an Amusement Ride Company license or renewal of such license may be denied if:

(a) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(b) The application is incomplete or does not contain the information required by this chapter;

(c) The applicant fails to comply with any conditions of approval including, but not limited to:

(1) remittance of all application and licensing fees;

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- (2) proof of liability insurance required;
- (3) proof of annual inspection of rides;
- (4) proof of certification of ride inspector;
- (5) obtaining all other permits and licenses required by the City

Code.

(d) The applicant, in the last two years, has violated the requirements of this chapter or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, *et seq.* and amendments thereto.

For the purposes of this section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has previously violated the terms and conditions of this chapter. A certified copy of conviction from any local or state court for any violation contained within subsection (d) is *prima facie* evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 6. Section 3.20.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Installation and operation regulations of temporary amusement rides. All temporary amusement rides shall conform to the following regulations and requirements:

(a) All improvements, and temporary amusement rides installed, erected or operated shall meet and comply with all requirements and regulations

provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

(b) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a temporary amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the Code of the City of Wichita regulating noise.

(c) No temporary amusement ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of temporary amusement rides which are operated completely within an enclosed building.”

SECTION 7. Section 3.20.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Installation and operation regulations of amusement parks. All amusement parks shall conform to the following regulations and requirements:

(a) No amusement park or carnival shall be installed or operated in zoning districts or zoning overlays other than those zoning districts or zoning overlays where an amusement park or carnival is allowed by the Wichita-

Sedgwick County Unified Zoning Code, relating to zoning within the corporate city limits of the City of Wichita.

(b) Unless other fence screening is required by the Wichita-Sedgwick County Unified Zoning Code, the entire area within which such amusement park is installed and operated shall be enclosed by a wire fence of a minimum height of five feet or other mode of screening approved by the Superintendent of Central Inspection.

(c) Adequate toilet facilities shall be provided in connection with such amusement park, and shall be constructed and maintained in accordance with the ordinances of the City of Wichita.

(d) Such amusement parks shall be operated in full compliance with all requirements of the health and sanitation ordinances of the City.

(e) All improvements, amusement rides or buildings installed, erected or operated in connection with amusement parks shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

(f) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with an amusement park, or any amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the code of the City of Wichita regulating noise.

(g) Amusement parks shall close and cease operations promptly at 12:00 midnight.

No amusement ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of amusement park attractions and amusement rides which are operated completely within an enclosed building.”

SECTION 8. Section 3.20.040 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Liability insurance. No person, firm, partnership, non-profit organization, or corporation within the corporate limits of the City shall be licensed as an Amusement Ride Company until a certificate of commercial general liability insurance with coverage of not less than one million dollars per occurrence is deposited and filed with the City Treasurer or his or her designee. The requirement of providing proof of insurance shall not apply if the owner of such amusement ride or park is the state, City or any subdivision of the State of Kansas.

The City will only accept coverage from an insurance carrier who offers proof that it is authorized to do business in the State of Kansas.”

SECTION 9. Section 3.20.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Inspections. (a) The licensee shall, as part of the license application or renewal, provide the City Treasurer or his or her designee with a certificate of

inspection by the appropriate, qualified inspector for the operation of any amusement ride.

Each certificate shall be in a format approved by the Superintendent of Central Inspection and shall include, at a minimum, the following information:

1. The date of inspection;
2. Name, manufacturer, type and serial or other identification number, if applicable, of the amusement ride inspected;
3. The items inspected including, but not limited to, any and all rides, attractions, structures, related utilities, support equipment and supplies;
4. The printed name, address, certification level, date of certification, and signature of the qualified inspector;
5. Specify any and all known defects or dangerous conditions, including defects or conditions which could be reasonably discovered, pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, support equipment and supplies;
6. The results of the nondestructive testing of the amusement ride which has been conducted in accordance with the recommendation of the manufacturer of the amusement ride and in conformance with standards at least equivalent to the current standards of the American Society for Testing and Materials.

(b) (1) Inspections for inflatables or kiddie rides shall be performed by a Level I qualified inspector.

(2) Inspections for amusement rides, other than inflatables or kiddie rides shall be performed by a Level II qualified inspector.

(c) No amusement ride shall be operated in the City unless such ride has a valid certificate of inspection.

(1) Amusement Park rides erected at a permanent location in the City shall be inspected by a Level II qualified inspector at least once every twelve (12) months.

(2) Inflatable or kiddie rides shall be inspected by a Level I qualified inspector at least once every twelve (12) months.

(3) Temporary amusement rides, with the exception of kiddie rides and inflatables, shall have been self-inspected by a Level II qualified inspector within the preceding thirty (30) days prior to the ride being erected.

(4) The certificate of inspection required by this subsection shall be signed and dated by the appropriate level qualified inspector. A copy of such inspection shall be submitted for review by the Superintendent of Central Inspection.

(5) An inspection verification certificate, issued by the City, shall be posted in plain view on or near the amusement ride in a location where it can easily be seen.”

SECTION 10. Section 3.20.065 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Operating Requirements. (a) The licensee shall retain, at all times, current maintenance and inspection records for each ride. These records shall be retained in such a way that segregates the records by ride. Such records shall be available to any officer authorized to enforce the provisions of this chapter and any person contracting with the licensee for the amusement ride’s operation.

(b) No amusement ride shall be operated in the City unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to the current standard of the American Society for Testing and Materials.

(c) Operators of amusement rides must have satisfactorily completed training that includes, the following:

- (1) instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;
- (2) demonstration of physical operation of the ride;
- (3) supervised observation of the operator’s physical operation of the ride;
- (4) the manufacturer’s recommendations for operation, set-up, use and maintenance of the amusement ride.

(d) Such training shall occur at least once every twelve months and may be conducted by the licensee or his or her designee.

(e) At the time of renting or leasing a temporary amusement ride, the licensee shall provide, in writing, to the individual renting the ride, the following:

- (1) Instructions on operating procedures for the ride;
- (2) General safety and emergency procedures;
- (3) Name, license number, address and phone number of the amusement ride company;
- (4) The name, manufacturer, serial number or other identification number of the amusement ride;
- (5) Date of last inspection;
- (6) Copy of inspection verification for the amusement ride issued by the City of Wichita.

(f) No amusement ride shall be operated in the City unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of training, signed and dated by the trainer, is available to any official designated to enforce this chapter and any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

(g) No amusement ride shall be operated in the City unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

(h) All amusement rides shall be operated in accordance with the manufacturer's instructions and recommendations for the operation, set-up, use and maintenance of such ride.

(i) The licensee or his or her agent shall contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

- (1) the name, address and phone number of the injured person;
- (2) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
- (3) the cause of the injury, if known; and
- (4) the names, address and phone numbers of any witnesses to the incident.

(j) Whenever a serious injury results from the operation of an amusement ride:

- (1) operation of the ride shall immediately be discontinued;
- (2) operation of the ride shall not be resumed until it has been inspected and the appropriate level qualified inspector has approved resumption of operation; and
- (3) the licensee, within thirty (30) days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

(k) During the period of the license, it shall be the responsibility of the licensee to notify the Superintendent of Central Inspection of the purchase of any additional amusement rides.

(l) Prior to the use of a new amusement ride, the licensee shall submit to the Superintendent of Central Inspection proof of purchase of such amusement ride.

(m) Prior to the use of a used amusement ride, the licensee shall submit to the Superintendent of Central Inspection a copy of an inspection by the appropriate level qualified inspector.

(n) Upon receipt of the proof of purchase or inspection, the Superintendent of Central Inspection will issue an inspection verification for such amusement ride.”

SECTION 11. Section 3.20.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Patron’s and Renter’s Responsibility. (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

(b) Each patron, or parent of a minor patron, of an amusement ride has a duty to:

(1) exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;

(2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;

(3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;

(4) engage all safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee;

(6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee; and

(7) any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this section.

(c) Each renter of an amusement ride has a duty to:

(1) operate any and all rented amusement rides in accordance with written and oral instructions regarding the operation, set-up and use of such ride as provided by the Amusement Ride Company;

(2) comply with any and all written or oral safety and emergency procedures as provided by the Amusement Ride Company;

(3) engage all safety devices that are provided for the amusement ride;

(4) ensure that patrons do not disconnect or disable safety devices of the amusement ride;

(5) have available on the premises where the amusement ride is operated, for review by any official designated to enforce this code, the documents provided to the renter from the Amusement Ride Company pursuant to Section 3.20.065(e);

(6) whenever a serious injury results from the operation of an amusement ride, the renter shall:

a. contact or call the Emergency Communications Center (911) to report any serious injury. Such notification shall include:

1. the name, address and phone number of the injured person;

2. a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;

3. the cause of the injury, if known; and

4. the names, address and phone number of any witnesses to the incident.

b. contact the Amusement Ride Company from which the ride was rented or leased;

c. immediately discontinue use of the ride.

(7) take necessary steps to reasonably ensure that patrons comply with safety, operation and use requirements of the amusement ride.”

SECTION 12. Section 3.20.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Enforcement and Inspection. The Superintendent of Central Inspection, or his or her designee, and the Chief of Police, or his or her designee, is authorized to inspect and approve the licensee's premises and amusement rides to ensure compliance with all state laws and the ordinances of the City of Wichita governing public health, safety and welfare.”

SECTION 13. Section 3.20.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Compliance. All licensees shall comply with all ordinances and regulations of the City of Wichita. A violation of the provisions of this chapter or any ordinances of the City of Wichita shall constitute grounds for revocation or suspension of the license.”

SECTION 14. Section 3.20.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Suspension or revocation of license--Notice of hearing. (a) Any license issued under this chapter may be suspended for a period not to exceed thirty days or revoked by the Chief of Police or Superintendent of Central Inspection or his or her designee upon five days' written notice, if the licensee:

- (1) has failed to pay the annual license fee;
- (2) violated any provision of this chapter;
- (3) becomes ineligible for a license;

(4) the licensee or applicant has given a false statement as to a material fact submitted to the City Treasurer during the application process;

(5) has failed to report a serious accident to an officer authorized to enforce the provisions of this chapter;

(6) has failed to maintain sufficient inspection and maintenance records or;

(7) has failed to permit the inspection of the premises and/or inspection and maintenance records during business hours by any official authorized to enforce the provisions of this chapter. The specific reasons for the revocation or suspension shall be set forth in the notice.

(b) For the purposes of subsections (a) of this section, written notice shall be deemed sufficient upon personal service or the mailing of the notice to the most recent address on the application of the licensee or applicant on file with the City Treasurer.

(c) For purposes of this Section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has violated the terms and conditions of this chapter or, the Amusement Ride Act, K.S.A. §44-601 et. seq. A certified copy of conviction from any local or state court for such violation is *prima facie* evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.”

SECTION 15. Section 3.20.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Appeal Procedure. (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of an amusement ride license may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Chief of Police or Superintendent of Central Inspection or his or her designee. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;
- (3) the date of the denial, suspension or revocation of the license or application; and
- (4) the factual basis for the appeal.

(b) The notice of appeal shall be accompanied by a fee of \$100.00. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Chief of Police or Superintendent of Central Inspection.

(d) The Council’s decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such

appeal to the District Court shall not stay the denial, revocation or suspension of the license by the City Council. The decision of the City Council shall become effective immediately.

(e) In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting on his or her behalf for a period of two years from the date of the revocation.”

SECTION 16. Section 3.20.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“**Penalty.** (a) With the exception of violations of Section 3.20.067, any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or by both such fine and imprisonment.

(b) Any person who violates the provisions of Section 3.20.067 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

(c) Each day a violation continues shall constitute a separate offense.”

SECTION 17. The originals of Sections 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.080, 3.20.090 and 3.20.100 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 18. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 27th day of July,
2010.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

CITY OF WICHITA
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Kingsbury Tract, future park site development. (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the Supplemental Agreement.

Background: Since 2004 sand mining operations have been carried out on the Kingsbury Tract, beginning with the northeastern portion of what will become a large recreational lake system. On September 11, 2007, the City Council authorized funding for design of a Master Plan for a future park at this site, and on June 6, 2008 approved a contract with a design team comprised of RDG Planning and Design (RDG), Cook Flatt and Strobel (CFS) and Applied Ecological Services (AES). In 2008 and 2009 the Kingsbury Park Master Plan was developed by this team and presented at a City Council Workshop on October 20, 2009. The Master Plan outlines the steps necessary to create this signature park, and itemizes the future construction documentation needed for this project.

Analysis: The 2009-2018 approved Capital Improvement Program (CIP) contains funding in 2009, 2011 and 2012 to develop infrastructure plans for the future park. The 2009 CIP funds are earmarked for grading, staging and restoration plans for Area “A” of the Kingsbury Tract, located generally along the east line of Hoover Road, north of K-96 Highway (see attachment). A contract has been prepared in the amount of \$242,000 for the RDG team to develop these documents. Future CIP funding is intended to address the development of Area “B”, road and bridge plans, as well as landscaping and permitting of the site. This plan development phasing timeline is critical to coincide with the phasing of the sand mining so that the lake system will be developed correctly. Sand mining allows the City to “sculpt” the lake bottom in varying and unique configurations to accommodate different uses, such as scuba diving, recreational and competitive boating activities, swimming and fishing. With proper planning and design the Kingsbury Tract will become a one-of-a-kind recreational venue for Wichita and the surrounding area.

Financial Considerations: The 2009 CIP provides \$250,000 for Land Acquisition and Development and was approved to fund development of Area “A” of Kingsbury Park. The Supplemental Agreement is with RDG Planning and Design.

Goal Impact: The initiation of this project will greatly enhance the Quality of Life for citizens of Wichita by increasing recreational opportunities. Kingsbury Park is being designed as a regional aquatic destination with exceptional facilities with a variety of uses.

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

Attachments: Location Map
Supplemental Agreement with RDG Planning and Design.

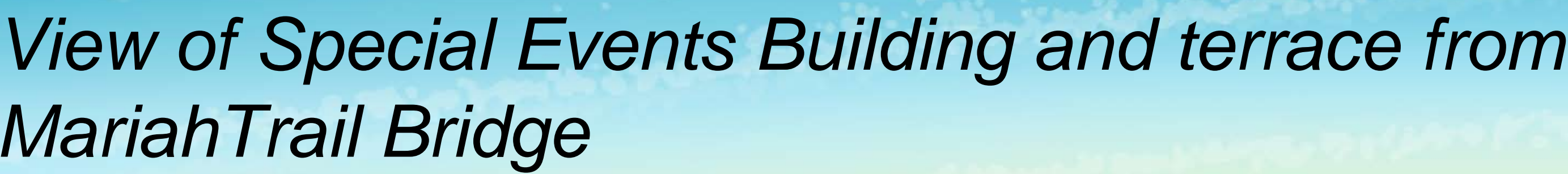


EXHIBIT “A”
SCOPE OF SERVICES
GRADING, STAGING, and RESTORATION PLANS (AREA “A”)
FOR
KINGSBURY PARK
FOR THE
CITY OF WICHITA
DEPARTMENT OF PARK AND RECREATION

General

The Kingsbury Park Master Plan was developed in 2009 for the 420-acre Kingsbury Park by the Design Team (LANDSCAPE ARCHITECT) comprised of RDG Planning and Design (RDG), Cook Flatt and Strobel (CFS) and Applied Ecological Services (AES). This team will be responsible to provide the following services. The purpose of this effort is to produce and develop GRADING, STAGING, and RESTORATION PLANS (AREA “A”) for Kingsbury Park. These plans will take the approved master plan to a more detailed level to provide the necessary guidance and direction for current sand mining and future park development. Furthermore, the approach and scope of the project will generally follow the Kingsbury Park Master Plan presented and approved by the City Council Workshop in October 2009. The sand mining operation by Cornejo Materials Inc., LLC, (Cornejo) is currently under a lease agreement with the City of Wichita, to build and shape 200 acres of lakes for park development.

The following will be provided by the LANDSCAPE ARCHITECT and the sub-consultants as required to perform the following tasks:

A: PHASE ONE: Investigation, Fact Finding and Storm Water Study

LANDSCAPE ARCHITECT will perform investigation and fact finding tasks, and develop a Storm Water Study including but not limited to:

1. Off-site runoff requirements for mining reclamation as discussed by Groundwater Management District #2. GMD #2 is currently requiring all off-site runoff to be directed away from the mined lakes to complete reclamation of the mining site.
 2. An analysis of future off-site runoff entering Kingsbury Park, including a concept plan and an analysis for handling future off-site runoff. LANDSCAPE ARCHITECT will coordinate with GMD #2 for requirements or restrictions for off-site runoff draining into the lakes. This analysis will be performed for mining reclamation (after mining operations are complete) and for future development of Kingsbury Park. Note: Since this work will relate to permits held by Cornejo and requirements for mining reclamation which is the responsibility of Cornejo, permit applications or permit requirements are not included in this Scope of Services.
 3. *Team Meeting One – 2 days in Wichita, KS* During this 2 day time period LANDSCAPE ARCHITECT will meet with City staff, the mining operator and others to develop stormwater goals and strategies for the project. Discussion will include storm water constraints and objectives to integrate into the overall grading plan. Conceptual BMP’s will be developed. Representatives from RDG, CFS and AES will be attendance.
- Fee for PHASE ONE:\$70,856

B. PHASE TWO: Concept Grading Plan Development

1. LANDSCAPE ARCHITECT will prepare a conceptual mass grading plan over the entire site, including, but not limited to contour lines and general drainage patterns. The conceptual mass grading plan will incorporate stormwater structures within the grading plan. The conceptual mass grading plan will be submitted in paper form as well as AutoCAD drawing files or DXF/DXB files, as applicable. Text fonts other than standard AutoCAD drawing files are to be included with drawing files.
 2. *Team Meeting Two – One day in Wichita, KS:* LANDSCAPE ARCHITECT will meet with City staff, the mining operator and others to present and review the concept grading plan, and explain and discuss storm water BMP's. Representatives from RDG, CFS and AES will be attendance.
- Fee for Phase Two: \$99,670

C. PHASE THREE: Prepare Mass Grading and Drainage Plan for Area “A” (See attachment)

1. Based on approved concept grading plan from Phase Two, LANDSCAPE ARCHITECT will prepare final mass grading plans at a 1”=50’ scale. The completed plans will be used to stake grading improvements and shoreline configuration. Plans will include, but are not limited to:
 - a. Information for placement of overburden material from mining operations.
 - b. Conceptual information for final grading.
 - c. Grading improvements when mining operations are complete.
 - d. Specifications prepared by a geotechnical engineer for placement of material which will be critical in structural fill areas.
 - e. Shoreline configuration, both above and below the water surface.

Plans are intended to be sufficient to complete mass grading of the site, when mining operations have ceased. This plan will also serve as a concept to develop the final improvements such as streets, trails, paving, buildings, bridges, structures, utilities, and finished grades. The plan will be submitted in paper form as well as AutoCAD drawing files or DXF/DXB files, as applicable. Text fonts other than standard AutoCAD drawing files are to be included with drawing files.

2. LANDSCAPE ARCHITECT will prepare a drainage plan that will serve the park until final drainage ways and structures can be placed. Plans will include, but are not limited to:
 - a. Hydrologic and hydraulic analysis to size drainage improvements.
 - b. A Concept plan for drainage ways and drainage structures based on future development of the park.
 - c. Best management practices to preserve water quality of the lakes and to enhance the natural park setting.
 - d. Storm water treatment Best Manage Practices that will be effective during the interim period of the site and that will also integrate into the future plans for Kingsbury Park.
 - e. Analysis and preliminary plans to reconfigure the detention pond capturing runoff from the Brooks landfill.
3. LANDSCAPE ARCHITECT will prepare a Drainage Report in accordance with current City of Wichita standards suitable for use in platting. Refer to information and checklists found at:

<http://www.wichita.gov/CityOffices/PublicWorks/StormWater/StormWaterManual.htm>

- Fee for Phase Three (Area A): \$30,154

D. PHASE FOUR: Phasing and Staging Plan for Topsoil and Overburden Restoration (Area “A”)

1. LANDSCAPE ARCHITECT will prepare an effective staging plan for mass grading operations, with the intention of minimizing excessive hauling of overburden material. Staging plan will include, but is not limited to:
 - a. Staging the construction of drainage ways and potential structures.
 - b. The development and use of specific areas of the park prior to completion of mining operations.
 - c. Topsoil quantities needed to be stockpiled and quantified for future use at the park.
 - d. Excess topsoil staging locations for use off-site or as a revenue source for the park improvements.
 - e. Estimated calculations for existing overburden material and embankment material for the park development.
 - f. Phasing of earthwork operations and material placement. Note: Staging plans for earthwork operation will be developed, and may be incorporated into the mass grading plans.
 2. LANDSCAPE ARCHITECT will develop a restoration plan drawing and written document that outlines the proposed restoration for the site, including, but not limited to:
 - a. Recommended phasing, as agreed upon in the Phase Three workshop.
 - b. Proposed potential staging options, such as an on-site nursery. Included in this plan will be detailed planting plans with species lists for the various habitat zones and an Opinion of Probable Cost for the restoration of this project. It is intended that the plan and document will serve as the base for developing biddable restoration plans for a contractor.
 3. *Team Meeting Four – One day in Wichita:* LANDSCAPE ARCHITECT will meet with City Staff to review the following:
 - a. 90% Mass Grading and Drainage Plan for comment. Comments discussed and provided will be incorporated into the 100% Mass Grading and Drainage Plan.
 - b. Draft phasing and staging plan (to be confirmed with the Mining operator). Comments discussed and provided will be incorporated into the Phasing Plan which may fold into the 100% Mass Grading Plans.
 - c. 90% restoration plans for the entire site.
 - d. Temporary erosion control plans for the first phase. Comments discussed and provided will be incorporated into a final Restoration Plan.
- Fee for Phase Four (Area A): \$41,320

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Woodlawn Right Turn Lane north of Kellogg (District II)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: Woodlawn, north of Kellogg, is a four lane roadway with four through lanes and a south bound left turn lane at Kellogg Drive. A recent traffic analysis indicates a need to relieve traffic congestion from south bound Woodlawn to west bound Kellogg. District II and III Advisory Boards considered the proposed project on June 2, 2010, and June 7, 2010. District II Advisory Board voted (9-0) to recommend approval of the project. The District III Advisory Board voted (8-0) to recommend approval of the project.

Analysis: The proposed improvement is the addition of a right turn lane for south bound Woodlawn traffic to the west bound Kellogg frontage road to accommodate this heavy movement. Construction is planned to begin after right of way acquisition.

Financial Consideration: The estimated construction cost for the improvement project is \$500,000. The proposed funding source is the Local Sales Tax. Funding is budgeted in the 2009-2018 Capital Improvement Program.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through an important traffic corridor.

Legal Considerations: The Law Department has approved the authorizing ordinance as to legal form.

Recommendation/Action: It is recommended that the City Council approve the project, place the ordinance on first reading and authorize the necessary signatures.

Attachments: Map, CIP sheet and ordinance.

**CAPITAL IMPROVEMENT
PROJECT AUTHORIZATION
CITY OF WICHITA**

USK

To Initiate Project

To Revise Project

1. Prepare in triplicate

2. Send original & 2 copies to budget

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department

6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location	
Public Works	Eng	6/21/2010	Woodlawn Right Turn Lane, north of Kellogg	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date	
NI-200424		2010		
9. Estimated Start Date As Required	10. Estimated Completion Date As Required	11. Project Revised		
12. Project Cost Estimate			12A.	
ITEM	CO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & curbs			\$101,000	\$101,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Streetscape				
Totals			\$500,000	\$500,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the project and place the ordinance on 1st Reading				
Division Head	Department Head		Budget Officer	City Manager
			Date	Date

First Published in the Wichita Eagle July 30th 2010

ORDINANCE NO. 48-777

AN ORDINANCE DECLARING **WOODLAWN, BETWEEN KELLOGG AND WILLOW BROOK (472-84911)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That **Woodlawn, between Kellogg and Willow Brook (472-84911)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **Woodlawn, between Kellogg and Willow Brook (472-84911)** as a main trafficway in the following particulars:

The design and construction of a right turn lane as necessary for a major traffic facility.

SECTION 3. The cost of the above described improvement is estimated to be **Five Hundred Thousand Dollars (\$500,000)** exclusive of the cost of interest on borrowed money, with the total paid by City of Wichita Local Sales Tax Funds. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 27th day of July, 2010.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

GARY REBENSTORF, DIRECTOR OF LAW

Woodlawn Right Turn Lane North of Kellogg

Proposed Improvement Area



**City of Wichita
City Council Meeting
July 20, 2010**

TO: Mayor and City Council

SUBJECT: City Council Policy 13 for Naming of Public Facilities (All Districts) and Street Over-Naming Request (District 1)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve proposed revisions to City Council Policy 13 (Mayor's Advisory Committee for Naming of Public Facilities) to allow for honorary over-naming of City street segments, and a request for over-naming of the 2600 and 2700 blocks of North Lorraine.

Background: Members of Calvary Baptist Church and the W.G. Williams Community Foundation, Inc. have requested that the 2600 and 2700 blocks of North Lorraine Avenue be renamed in honor of Dr. W. G. Williams, pastor of Calvary Baptist Church and community leader.

The request was reviewed by the City's addressing committee, which advised that officially renaming the street in memory of Dr. Williams could create confusion with an existing street (William Street), would interrupt the existing Lorraine designation, and does not meet nomenclature regulations (no initials, academic or professional designations).

Analysis: City Council Policy 13 addresses the naming of City facilities. A proposed revised Policy 13 is attached which adds honorary over-naming of street segments to this policy. Over-naming a street would not entail postal, mapping or other official renaming designations, and the approval of abutting property owners or residents would not be required. Over-naming would consist of the addition of an extra street name sign 'blade' to existing street name sign posts. The blades and installation would be required to meet City specifications.

Financial Considerations: Production, installation and maintenance of signs with the honorary designation would be at the sponsoring individual's or group's expense and therefore there would be virtually no additional expense to the City of Wichita.

Goal Impact: Allowing over-naming of streets would address the Core Area and Neighborhood goal by increasing the sense of neighborhood and community involvement for groups and individuals who identify with the over-naming designation.

Legal Considerations: The proposed policy has been reviewed as to legal form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the over-naming policy and the request to over-name the 2600 and 2700 blocks of North Lorraine Avenue for Dr. W.G. Williams.

Attachments: Revised City Council Policy 13 pertaining to naming of City facilities, and over-naming request from Pamela D. Williams, Executive Director, W.G. Williams Community Foundation, Inc.

From: Pamela Williams [<mailto:pdewill05@yahoo.com>]

Sent: Monday, March 08, 2010 6:47 PM

To: Williams, Lavonta

Subject: Inquiry

Good evening,

I would like to know how we would go about naming a street after Dr. W.G. Williams? I had thought about the section of Lorraine from 25th to the church, which is basically just the 26 hundred block; or the section of 25th street from Grove to Hillside, since Calvary Towers was built under his leadership and was the first Senior Housing Complex in the city; the family once resided in the home at the corner of 25th and Raleigh and then the drive up 25th to Hillside where the church is now.

Pamela D. Williams

Executive Director

W.G. Williams Community Foundation, Inc.

P.O. Box 2215

Wichita, KS 67201-2215

[316] 943-8951

Note: Following discussion with City staff , Ms. Williams modified her request to include the 2700 block as well as the 2600 block of North Lorraine.

City Council Policy

Policy 13
Revised: July 20, 2010
Supersedes: Oct. 12, 1993

Subject: Mayor's Advisory Committee for Naming of Public Facilities Including Honorary Over-Naming of City Streets

It is the policy of the City of Wichita to name public facilities in accordance with their intended use and, where appropriate, to recognize distinguished citizens by naming public facilities in their memory.

To assist in naming facilities, a Mayor's Advisory Committee shall meet "as needed." Each City Council member will nominate one (1) person to serve on the Committee. Appointees shall be residents of Wichita and at least 18 years of age. The appointees may be members of another Board or Commission. The Committee shall be charged with formulating recommendations to the City Council and will disband upon assignment completion.

1. All proposals for naming a facility shall be referred in writing to the Mayor's Advisory Committee for recommendation. The proposal shall describe the facility to be named, shall state the name being proposed, and shall include reasons and qualifications of such person having a facility named after him or her.
2. Approval must be obtained from the proper authorities if naming a federal or state property or facility.
3. The name must not duplicate or be able to be confused with the name/s of existing facilities.
4. If the recommendation is a person's name, it may only include the name of a person or persons who are deceased.
5. The person being distinguished must be one who has made a significant contribution to the City, and such person must have been primarily responsible for the existence or well-being of the facility.
6. The selection of a name, if not a person's name, must be based on the function of the facility and the image the name would reflect.
7. The naming of City-owned facilities shall not be limited to new facilities. Existing facilities may be renamed.
8. The Mayor's Advisory Committee shall review all proposals and forward recommendations to the City Council.
9. The City Council shall have the final authority for selection of an appropriate name upon recommendation of the Committee.
10. Segments of a City street may be 'over-named' by direct Council action, without referral to the Mayor's Advisory Committee, in conformance with the conditions and requirements below:
 - Over-naming will be an honorary designation; no postal, map, or other addressing designations will be involved.
 - Only residential streets will be over-named. The consent of property owners or residents on the street segment to be over-named will NOT be required.
 - The street segment to be over-named should relate to the person being honored in some meaningful way.
 - Only one over-naming will be allowed on any given segment of City street.
 - Over-naming will consist of the addition of street name signs ('blades') which meet City of Wichita specifications to the existing street name posts at each end of the street segment, in a manner also specified by the City of Wichita.

INSTALLATION AND MAINTENANCE RESPONSIBILITIES FOR OVER-NAMED STREETS

- The individual or group which requests the over-naming will be responsible for having the appropriate number of blades made and attached to the City's posts by a private vendor. City staff

will provide the specifications and the names of qualified vendors to the group or individual which is sponsoring the over-naming.

- Installed blades that do not conform to the request as approved by the City Council will be removed by City staff.
- In the event that an over-named sign blade is damaged or vandalized, the City will notify the sponsor/s of the need for replacement.
- The sponsor will be responsible for replacement of damaged and stolen blades, using the same specifications as for the original installation. If the sponsor does not replace damaged or stolen blades within 90 days of notification, the City Engineer is authorized to rescind the over-naming designation and cause any remaining blades carrying the same designation to be removed and retained by the City.
- Over-naming will be in effect for 20 years, after which time the request must be resubmitted for Council approval. Over-naming signs in good condition will not need to be replaced at the time of Council approval.

City staff will notify the over-naming sponsor following approval by the City Council, to provide the specifications and vendor information identified above.

The City will retain responsibility for maintenance of the official City street name blades and the posts on which they are mounted, in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). In the event that some future edition of the MUTCD shall prohibit or restrict the practice set out in this policy, the City will be responsible for adjusting and/or removing the over-naming signs as necessary to comply with the MUTCD.

To request over-naming of a street segment, the sponsoring group or individual must submit a written request to the Mayor's Office, identifying:

- the blocks proposed for over-naming (such as, Porter from Pine to Murdock);
- the name proposed for the over-name (such as, G. Fred Williams);
- a brief statement of the person's contribution to the quality of life in Wichita;
- how the requested location is relevant to the person being honored;
- some form of documentation of that person's death; and
- contact information for the sponsoring group/individual.

City Council Policy

Policy 13
Revised: July 20, 2010
Supersedes: Oct. 12, 1993

Subject: Mayor's Advisory Committee for Naming of Public Facilities
Including Honorary Over-Naming of City Streets

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1. All proposals for naming a facility shall be referred in writing to the Mayor's Advisory Committee for recommendation. The proposal shall describe the facility to be named, shall state the name being proposed, and shall include reasons and qualifications of such person having a facility named after him or her.
2. Approval must be obtained from the proper authorities if naming a federal or state property or facility.
3. The name must not duplicate or be able to be confused with the name/s of existing facilities.
4. If the recommendation is a person's name, it may only include the name of a person **or persons** who **is are** deceased.
5. The person being distinguished must be one who has made a significant contribution to the City, and such person must have been primarily responsible for the existence or well-being of the facility.
6. The selection of a name, if not a person's name, must be based on the function of the facility and the image the name would reflect.
7. The naming of City-owned facilities shall not be limited to new facilities. Existing facilities may be renamed.
8. The Mayor's Advisory Committee shall review all proposals and forward recommendations to the City Council.
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 - **Over-naming will be an honorary designation; no postal, map, or other addressing designations will be involved.**
 - **Only residential streets will be over-named. The consent of property owners or residents on the street segment to be over-named will NOT be required.**
 - **The street segment to be over-named should relate to the person being honored in some meaningful way.**
 - **Only one over-naming will be allowed on any given segment of City street.**
 - **Over-naming will consist of the addition of street name signs ('blades') which meet City of Wichita specifications to the existing street name posts at each end of the street segment, in a manner also specified by the City of Wichita.**

INSTALLATION AND MAINTENANCE RESPONSIBILITIES FOR OVER-NAMED STREETS

- The individual or group which requests the over-naming will be responsible for having the appropriate number of blades made and attached to the City's posts by a private vendor. City staff will provide the specifications and the names of qualified vendors to the group or individual which is sponsoring the over-naming.
- Installed blades that do not conform to the request as approved by the City Council will be removed by City staff.
- In the event that an over-named sign blade is damaged or vandalized, the City will notify the sponsor/s of the need for replacement.
- The sponsor will be responsible for replacement of damaged and stolen blades, using the same specifications as for the original installation. If the sponsor does not replace damaged or stolen blades within 90 days of notification, the City Engineer is authorized to rescind the over-naming designation and cause any remaining blades carrying the same designation to be removed and retained by the City.
- Over-naming will be in effect for 20 years, after which time the request must be resubmitted for Council approval. Over-naming signs in good condition will not need to be replaced at the time of Council approval.

City staff will notify the over-naming sponsor following approval by the City Council, to provide the specifications and vendor information identified above.

The City will retain responsibility for maintenance of the official City street name blades and the posts on which they are mounted, in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). In the event that some future edition of the MUTCD shall prohibit or restrict the practice set out in this policy, the City will be responsible for adjusting and/or removing the over-naming signs as necessary to comply with the MUTCD.

To request over-naming of a street segment, the sponsoring group or individual must submit a written request to the Mayor's Office, identifying:

- the blocks proposed for over-naming (such as, Porter from Pine to Murdock);
- the name proposed for the over-name (such as, G. Fred Williams);
- a brief statement of the person's contribution to the quality of life in Wichita;
- how the requested location is relevant to the person being honored;
- some form of documentation of that person's death; and
- contact information for the sponsoring group/individual.

**City of Wichita
City Council Meeting
July 20, 2010**

TO: Mayor and City Council Members

SUBJECT: General Obligation Bond and Note Sale

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Approve the bids.

Background: The City is offering for sale one series of general obligation temporary notes in a principal amount not to exceed \$57,760,000 (Series 238) and four series of general obligation bonds (Series 801, Series 802, Series 802A and Series 802B) in a principal amount not to exceed \$34,420,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City.

Analysis: The proceeds from the sale of the Series 238 Improvement and Renewal Notes will be used to provide interim financing for City-at-large, Airport, improvement district projects and improvements related to the WaterWalk project. The proceeds from the sale of the Series 801 Bonds will be used to permanently finance Storm Water Utility, City-at-large and other public improvement projects. The proceeds from the sale of the Series 802, 802A and 802B Bonds will be used to permanently finance neighborhood and façade improvements located in special improvement districts. Due to the nature of the façade improvements, the Series 802B Bonds are taxable under Federal law.

Bids will be accepted electronically via **PARITY** Electronic Bid Submission System until 10:00 a.m. CST in the Finance Conference Room. No bids will be accepted after the 10:00 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest true interest rate.

Financial Considerations: The Series 238 (\$57,760,000) Temporary Notes will mature on August 18, 2011 and will be retired using cash, the proceeds of permanent financing bonds and/or renewal notes issued at that time. The Series 238 Temporary Notes will be callable February 10, 2010 at par. The Series 801 Bonds (\$21,000,000) will mature serially over 10 or 15 years and will be callable in 2015 with a 1% call premium that declines annually by .5%. The Series 802 Bonds (\$6,085,000) will mature serially over fifteen years and will be paid from special assessments that are levied against benefited property. The Series 802 Bonds are callable beginning in 2017 with a 1% call premium that declines annually by .5%. The Series 802A Bonds (\$6,075,000) will mature serially over twenty years and will be paid from special assessments that are levied against benefited property. The Series 802B Bonds, issued in an amount not to exceed \$1,260,000 (taxable under Federal law) will mature over 15 or 20 years and will be paid from special assessments that are levied against benefited property. The Series 802A and Series 802B Bonds will be callable beginning in 2020 with a 1% call premium that declines annually by .5%.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale.

Legal Considerations: Bond Counsel will review and approve the bids and the Law Department will approve the authorizing Ordinances and Resolutions which have been prepared by Bond Counsel.

Recommendations/Actions: It is recommended that the City Council: (1) direct the opening and reading of the bids; (2) award the sale of the Bonds and Temporary Notes; and (3) find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction, adopt the Bond and Note Ordinances and Resolutions and authorize the publication of the Bond and Note Ordinances.

Attachments: For each Bond and Note series: Request for Declaration of Emergency
 Resolution Authorizing Issuance of Bonds/Notes
 Ordinance Authorizing Issuance of Bonds/Notes

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, July 20, 2010, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 801, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$21,000,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 801 Bonds occur on the same day bids are received and to enable the City to deliver the Series 801 Bonds authorized by said Ordinance on July 20, 2010.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on July 20, 2010.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, July 20, 2010, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,085,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 802 Bonds occur on the same day bids are received and to enable the City to deliver the Series 802 Bonds authorized by said Ordinance on July 20, 2010.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on July 20, 2010.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, July 20, 2010, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,075,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 802A Bonds occur on the same day bids are received and to enable the City to deliver the Series 802A Bonds authorized by said Ordinance on July 20, 2010.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on July 20, 2010.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, July 20, 2010, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802B (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$1,260,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 802B Bonds occur on the same day bids are received and to enable the City to deliver the Series 802B Bonds authorized by said Ordinance on July 20, 2010.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on July 20, 2010.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, July 20, 2010, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 238, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$57,760,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 238 Notes occur on the same day bids are received and to enable the City to deliver the Series 238 Notes authorized by said Ordinance on July 20, 2010.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on July 20, 2010.

Carl Brewer, Mayor

Karen Sublett, City Clerk

ORDINANCE NO. 48-771

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 238, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$57,760,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 234, dated March 4, 2010, and General Obligation Renewal and Improvement Temporary Notes, Series 236, dated March 4, 2010 (collectively, the “Original Notes”), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, pursuant to Resolution No. 10-172 duly adopted June 22, 2010, the Governing Body advertised for bids at a public sale approximately \$57,760,000 principal amount of the City's General Obligation Renewal and Improvement Temporary Notes, Series 238, for the purpose of renewing interim financing for the Original Improvements and providing new interim financing for the Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on July 14, 2009, adopted Ordinance No. 48-367 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew a portion of the principal amount of the Original Notes and for the interim financing of the Improvement Costs all as further described on Schedule I to the Note Resolution, there shall be issued general obligation renewal and improvement temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessments taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City

for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Note Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall make provision for the payment of the principal of and interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements and the Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements or the Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Note Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes.

Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Note Registrar for the Notes; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Note Registrars with respect to the Notes upon fifteen (15) days’ written notice to the then acting Paying Agent and Note Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Note Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing

Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on July 20, 2010.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-772

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 801, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$21,000,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements” as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid by the issuance of general obligation bonds of the City and other available funds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$21,000,000, all of which is payable by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, pursuant to Resolution No. 10-172 duly adopted June 22, 2010, the Governing Body advertised for bids at a public sale approximately \$21,000,000 principal amount of the City’s General Obligation Bonds, Series 801, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on July 14, 2009, adopted Ordinance No. 48-366 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and

Exchange Commission Rule 15c2-12, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Bond Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to

take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days’ written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and

issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on July 20, 2010.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-773

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,085,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements” as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any cash paid by the owners of the real properties against which special assessments therefore were levied and less other available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$6,085,000, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, pursuant to Resolution No. 10-172 duly adopted June 22, 2010, the Governing Body advertised for bids at a public sale approximately \$6,085,000 of the City’s General Obligation Bonds, Series 802, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on July 14, 2009, adopted Ordinance No. 48-366 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Bond Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable

therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days’ written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal

of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

[Remainder of This Page Intentionally Left Blank]

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on July 20, 2010.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,075,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements” as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any cash paid by the owners of the real properties against which special assessments therefore were levied and less other available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$6,075,000, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, pursuant to Resolution No. 10-172 duly adopted June 22, 2010, the Governing Body advertised for bids at a public sale approximately \$6,075,000 principal amount

of the City's General Obligation Bonds, Series 802A, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on July 14, 2009, adopted Ordinance No. 48-366 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with

the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the

Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on July 20, 2010.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-775

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802B (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$1,260,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the "Improvements" as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any cash paid by the owners of the real properties against which special assessments therefore were levied and less other available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$1,260,000, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City's general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and

WHEREAS, pursuant to Resolution No. 10-172 duly adopted June 22, 2010, the Governing Body advertised for bids at a public sale for approximately \$1,260,000 of the City's General Obligation Bonds, Series 802B (Taxable Under Federal Law), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on July 14, 2009, adopted Ordinance No. 48-366 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Bond Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and

collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 6. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the

Bonds and the Official Statement.

Section 7. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on July 20, 2010.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

RESOLUTION NO. 10-188

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JULY 20, 2010

AUTHORIZING THE ISSUANCE OF

\$57,760,000

GENERAL OBLIGATION RENEWAL AND IMPROVEMENT

TEMPORARY NOTES

SERIES 238

DATED AUGUST 19, 2010

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RESOLUTION NO. 10-188

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 238, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$57,760,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Note Ordinance (as herein defined), has authorized the issuance of the Notes in the aggregate principal amount of \$57,760,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Original Improvements as listed on **Schedule I** are herein collectively referred to as the "Original Improvements"), and of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Improvements as listed on **Schedule I** are herein collectively referred to as the "Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 234, dated March 4, 2010, and General Obligation Renewal and Improvement Temporary Notes, Series 236, dated March 4, 2010 (collectively, the "Original Notes"), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying a portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance Nos. 156 and 78 of the City, K.S.A. 10-101 *et seq.*, K.S.A. 10-123, K.S.A. 12-1770 *et seq.*, K.S.A. 12-6a01 *et seq.*, K.S.A. 12-1736 *et seq.*, K.S.A. 13-1348a, and K.S.A. 13-1024c, all as amended and supplemented, under the authority of which ordinances and statutes the Improvements were authorized, the Original Notes were issued and the Notes are issued.

“Authorized Investments” shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor,

together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements and the Original Improvements.

“Date of Issuance” shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Notes, which is August 19, 2010.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Notes for a single Bond Year, as described in the Code.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the Note Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Original Improvement and/or an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the newly commenced capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Date” shall be August 18, 2011.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

“Maturity Date” means August 18, 2011.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Note Insurer insuring the payment when due of the principal of and interest on the Notes as described on **Exhibit A** to this Resolution.

“Note Insurer” shall mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

“Note Ordinance” means the ordinance of the City authorizing the issuance of the Notes as further described on **Exhibit A** to this Resolution.

“Note Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Noteowner(s)” shall mean the Owner(s) of the Notes.

“Notes” shall mean the \$57,760,000 original principal amount of General Obligation Renewal and Improvement Temporary Notes, Series 238, dated August 19, 2010, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

“Original Notes” means the notes previously issued by the City described in the preamble to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Notes to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Notes described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Note, the person or entity in whose name the Note is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Capital Project Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

“Principal Payment Date” shall mean the Maturity Date.

“Purchase Price” means the original purchase price of the Notes described on **Exhibit A** to this Resolution.

“Record Date” shall mean fifteen days prior to the Maturity Date.

“Redemption Fund” shall mean the Series 234 and Series 236 Principal and Interest Account previously created within the City’s Capital Project Fund for the purpose of receiving and disbursing funds for the payment of the Original Notes.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Notes.

“Resolution” or “Note Resolution” shall mean this Resolution adopted by the Governing Body of the City on July 20, 2010, prescribing the terms and details of the Notes.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.06** of this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and banker’s acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to provide interim financing for a portion of the Original Improvements and the Improvements, there shall be issued the Notes. In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessment taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and the Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be issued in the total principal amount of \$57,760,000, and shall be designated “City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 238.” The Notes shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of

the Notes. The Notes shall be dated the Dated Date, shall mature on the Maturity Date, and shall bear interest at the rate set forth on **Exhibit A** to this Resolution. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of 12 30-day months) and such interest shall become due and payable on the Interest Payment Date.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Note Registrar shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Note Registrar for the Notes; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Note Registrars with respect to the Notes upon fifteen (15) days' written notice to the then acting Paying Agent and Note Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Note Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City and the Paying Agent will make payment for the Notes directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificate will be immobilized in its custody. Purchases of the Notes in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Notes are Subsequently Issued. The principal of, premium, if any, and the interest on the Notes shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Notes shall be paid to the Owner of each Note upon presentation and surrender of the Note to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Note. The interest on the Notes shall be mailed by the Paying Agent to the Owner of each Note at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Note Registrar.

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution.

Section 2.06 Payment of Costs of Notes. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Notes. The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act and for the interim financing of portions of the Improvements and the Original Improvements. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

Section 2.08 Registration, Transfer and Exchange of Notes. In the event the Notes are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Notes as provided in this Resolution to be kept by the Note Registrar (the "Registration Books"), and the Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Note Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Note Registrar. Upon the surrender for transfer of any certificated Note at its office, the Note Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Note Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Note Registrar, the Note Registrar shall transfer or exchange any Note(s) for new Note(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Note(s) presented for transfer or exchange. All Notes presented for transfer or exchange shall be surrendered to the Note Registrar for cancellation. Prior to delivery

of any new Note(s) to the transferee, the Note Registrar shall register the same in the Registration Books and shall authenticate each such new Note.

The City and the Note Registrar shall not be required to issue, register, transfer or exchange any Notes during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes. In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one

time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF NOTES**

Section 3.01 Optional Redemption. At the option of the City, the Notes may be called for redemption and payment prior to their stated maturity, in whole or in part, on and after February 10, 2011 (the date being so set for redemption and payment being referred to as the “Redemption Date”). Notes called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), of 100% of the principal amount, plus accrued interest to the Redemption Date.

Section 3.02 Selection of Notes to be Redeemed. The Notes shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Notes at the time Outstanding, the Notes shall be redeemed in such equitable manner as the City shall determine, with Notes of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Notes by lot when Notes of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Note shall be treated as though it were a separate Note in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Note has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Note to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Note called for redemption, and (ii) for exchange, without charge to the Owner, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Owner of any Note of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Note as aforesaid, the \$5,000 units of the face value of such Note which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.03 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Notes so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Note or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Notes so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Notes or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Notes selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Note is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Note or Notes in the amount of the unredeemed portion of such Note as provided by **Section 3.02** above. All Notes selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 Effect of Call for Redemption. Whenever any Note, or one or more of the \$5,000 units of face value represented by any Note, has been selected for redemption and payment as provided in this Article, all interest on such Note, or such one or more of the \$5,000 units of face value represented by any such Note, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV

FUNDS AND ACCOUNTS

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Redemption Fund for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 238;

- (B) Improvement Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 238;
- (C) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 238, to be created within the City's Capital Project Fund; and
- (D) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 238.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

ARTICLE V

APPLICATION OF NOTE PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes; and
- (B) To the Redemption Fund, the sum of \$42,456,300; and
- (C) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designated for payment of the costs of the Notes, if any, shall likewise be deposited into the Principal and Interest Account.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date,

together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Notes.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation note issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Redemption Fund. The portion of the proceeds of the Notes deposited into the Redemption Fund as provided by the preceding **Section 5.01** shall be used solely for the purpose of paying a portion of the cost of refunding the Original Notes issued for the Original Improvements.

Section 5.06 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.07 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements, and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.08 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Original Improvements and the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.09 Substitution of Improvements. The City may elect to substitute or add other improvements paid for with the proceeds of the Notes pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel

to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Notes under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI

DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits Into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Note shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the

Excess Earnings Account after payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Notes.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Notes shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF NOTES

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements and Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect

or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (v) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon notes or the exchange of the fully registered Notes for such coupon notes, will not cause the interest on the Notes to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (vi) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such

instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

- (A) Extend the Maturity Date of any Note;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;
- (C) Permit a preference or priority of any Note or Notes over any other Note or Notes;
or
- (D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment

shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement

contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on July 20, 2010.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE ORIGINAL IMPROVEMENTS AND THE IMPROVEMENTS

EXHIBIT A

ADDITIONAL TERMS OF THE SERIES 238 NOTES

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Note Ordinance” shall mean Ordinance No. _____ of the City, passed by the Governing Body on July 20, 2010, and authorizing and providing for the issuance of the Notes.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Notes.

“Purchase Price” for the Notes shall be the par value of the Notes plus accrued interest to the date of delivery, plus a premium of \$_____.

Interest Rate. The Notes shall bear interest at the rate of _____% per annum.

RESOLUTION NO. 10-189

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JULY 20, 2010

AUTHORIZING THE ISSUANCE OF

\$21,000,000

GENERAL OBLIGATION BONDS

SERIES 801

DATED AUGUST 1, 2010

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RESOLUTION NO. 10-189

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 801, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$21,000,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$21,000,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156, K.S.A. 10-101 *et seq.*, K.S.A. 12-685 *et seq.*, and K.S.A. 13-1024c, all as amended and supplemented.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Insurer” mean any issuer of a Municipal Bond Insurance Policy, if applicable, described on **Exhibit A** to this Resolution.

“Bond Ordinance” means the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

“Bond Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$21,000,000 original principal amount of General Obligation Bonds, Series 801, dated August 1, 2010, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is August 1, 2010.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be June 1 and December 1 of each year commencing June 1, 2011, and ending December 1, 2025, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on **Exhibit A** to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be

held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean December 1 of each year, commencing December 1, 2011, and ending December 1, 2025, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution, adopted by the Governing Body of the City on July 20, 2010, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on **Exhibit A** to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$21,000,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 801.” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully

registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and

effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing December 1, 2011 to December 1, 2015, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing December 1, 2016, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after December 1, 2015. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the "Redemption Date"). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
December 1, 2015, through November 30, 2016	101.00%
December 1, 2016, through November 30, 2017	100.50%
December 1, 2017, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit A** to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.02** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 801;

- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 801, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 801.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V

APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds; and
- (B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI **DEPOSITS AND INVESTMENT OF MONEYS**

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be

invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk

or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii)

to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI **MISCELLANEOUS PROVISIONS**

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of

the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on July 20, 2010.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 801 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on July 20, 2010, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery, plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
December 1, 2011	\$1,520,000	%
December 1, 2012	1,565,000	
December 1, 2013	1,615,000	
December 1, 2014	1,660,000	
December 1, 2015	1,710,000	
December 1, 2016	1,765,000	
December 1, 2017	1,815,000	
December 1, 2018	1,870,000	
December 1, 2019	1,925,000	
December 1, 2020	1,985,000	
December 1, 2021	670,000	
December 1, 2022	695,000	
December 1, 2023	715,000	
December 1, 2024	735,000	
December 1, 2025	755,000	

RESOLUTION NO. 10-190

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JULY 20, 2010

AUTHORIZING THE ISSUANCE OF

\$6,085,000

GENERAL OBLIGATION BONDS

SERIES 802

DATED AUGUST 1, 2010

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RESOLUTION NO. 10-190

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$6,085,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$6,085,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean K.S.A. 10-101 *et seq.*, as amended and supplemented, and K.S.A. 12-6a01 *et seq.*, as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Insurer” mean any issuer of a Municipal Bond Insurance Policy, if applicable, described on **Exhibit A** to this Resolution.

“Bond Ordinance” means the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

“Bond Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$6,085,000 original principal amount of General Obligation Bonds, Series 802, dated August 1, 2010, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is August 1, 2010.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be June 1 and December 1 of each year commencing June 1, 2011, and ending December 1, 2025, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on **Exhibit A** to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be

held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean December 1 of each year, commencing December 1, 2011, and ending December 1, 2025, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution, adopted by the Governing Body of the City on July 20, 2010, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on **Exhibit A** to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$6,085,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 802.” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds

would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or

liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and

effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing December 1, 2011 to December 1, 2017, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing December 1, 2018, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after December 1, 2017. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the "Redemption Date"). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
December 1, 2017, through November 30, 2018	101.00%
December 1, 2018, through November 30, 2019	100.50%
December 1, 2019, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit A** to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.02** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802;

- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V

APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds; and
- (B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI **DEPOSITS AND INVESTMENT OF MONEYS**

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be

invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk

or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other

provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable

cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI **MISCELLANEOUS PROVISIONS**

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the

proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on July 20, 2010.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 802 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on July 20, 2010, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery, plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall become due on the dates and shall bear interest at the rates per annum as follows:

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
December 1, 2011	\$325,000	%
December 1, 2012	335,000	
December 1, 2013	350,000	
December 1, 2014	360,000	
December 1, 2015	370,000	
December 1, 2016	380,000	
December 1, 2017	390,000	
December 1, 2018	400,000	
December 1, 2019	415,000	
December 1, 2020	425,000	
December 1, 2021	440,000	
December 1, 2022	455,000	
December 1, 2023	465,000	
December 1, 2024	480,000	
December 1, 2025	495,000	

RESOLUTION NO. 10-191

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JULY 20, 2010

AUTHORIZING THE ISSUANCE OF

\$6,075,000

GENERAL OBLIGATION BONDS

SERIES 802A

DATED AUGUST 1, 2010

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RESOLUTION NO. 10-191

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$6,075,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$6,075,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean K.S.A. 10-101 *et seq.*, and K.S.A. 12-6a01 *et seq.*, all as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Insurer” mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

“Bond Ordinance” means the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

“Bond Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$6,075,000 original principal amount of General Obligation Bonds, Series 802A, dated August 1, 2010, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or

ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is August 1, 2010.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to

redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be June 1 and December 1 of each year commencing June 1, 2011, and ending December 1, 2030, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on **Exhibit A** to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on Exhibit A to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to Article IV hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean December 1 of each year, commencing December 1, 2011, and ending December 1, 2030, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on Exhibit A to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution adopted by the Governing Body of the City on July 20, 2010, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on Exhibit A to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such

investments so published on or most recently prior to such time of determination,

- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$6,075,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 802A.” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of

Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying

Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) **In the Event Certificated Bonds are Subsequently Issued.** The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment

of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing December 1, 2011, to December 1, 2020, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing December 1, 2021, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after December 1, 2020. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
December 1, 2020, through November 30, 2021	101.00%
December 1, 2021, through November 30, 2022	100.50%
December 1, 2022, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit A** to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are

to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.02** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802A;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802A, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802A.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V
**APPLICATION OF BOND PROCEEDS;
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds; and
- (B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all

duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI **DEPOSITS AND INVESTMENT OF MONEYS**

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be

deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the “Rebate Amounts”). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City’s General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City’s obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though

fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII **PROVISION FOR PAYMENT OF BONDS**

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties

of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove

provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City

Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

(The Remainder of this Page was Intentionally Left Blank)

ADOPTED AND APPROVED by the Governing Body of the City of Wichita,
Kansas, on July 20, 2010.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 802A BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on July 20, 2010, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery, plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
December 1, 2011	\$225,000	%
December 1, 2012	235,000	
December 1, 2013	240,000	
December 1, 2014	245,000	
December 1, 2015	255,000	
December 1, 2016	265,000	
December 1, 2017	270,000	
December 1, 2018	280,000	
December 1, 2019	285,000	
December 1, 2020	295,000	
December 1, 2021	305,000	
December 1, 2022	315,000	
December 1, 2023	320,000	
December 1, 2024	330,000	
December 1, 2025	340,000	
December 1, 2026	350,000	
December 1, 2027	365,000	
December 1, 2028	375,000	
December 1, 2029	385,000	
December 1, 2030	395,000	

RESOLUTION NO. 10-192

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JULY 20, 2010

AUTHORIZING THE ISSUANCE OF

\$1,260,000

GENERAL OBLIGATION BONDS

SERIES 802B

(TAXABLE UNDER FEDERAL LAW)

DATED AUGUST 1, 2010

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RESOLUTION NO. 10-192

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 802B (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$1,260,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$1,260,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean K.S.A. 10-101 *et seq.*, and K.S.A. 12-6a01 *et seq.*, all as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Insurer” mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

“Bond Ordinance” means the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

“Bond Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$1,260,000 original principal amount of General Obligation Bonds, Series 802B (Taxable Under Federal Law), dated August 1, 2010, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is August 1, 2010.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be June 1 and December 1 of each year commencing June 1, 2011, and ending December 1, 2030, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on **Exhibit A** to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean December 1 of each year, commencing December 1, 2011, and ending December 1, 2030, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution adopted by the Governing Body of the City on July 20, 2010, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to Section 5.08 of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on Exhibit A to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$1,260,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 802B (Taxable Under Federal Law).” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be

recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the

Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with Section 2.04(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the

Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing December 1, 2011, to December 1, 2020, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing December 1, 2021, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after December 1, 2020. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
December 1, 2020, through November 30, 2021	101.00%
December 1, 2021, through November 30, 2022	100.50%
December 1, 2022, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit A** to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and

in the amount of the unredeemed portion of such Bond as provided by **Section 3.02** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

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ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802B (Taxable Under Federal Law); and
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 802B (Taxable Under Federal Law), to be created within the City's Debt Service Fund.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V **APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds; and
- (B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI **DEPOSITS AND INVESTMENT OF MONEYS**

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month.

ARTICLE VII **PROVISION FOR PAYMENT OF BONDS**

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained

for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, is not prohibited under the provisions of applicable Federal law.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the

meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.02 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body,

such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.03 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.04 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita,
Kansas, on July 20, 2010.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 802B
(TAXABLE UNDER FEDERAL LAW) BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on July 20, 2010, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery, plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

Maturity Schedule

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
December 1, 2011	\$65,000	%	December 1, 2021	\$85,000	%
December 1, 2012	65,000		December 1, 2022	90,000	
December 1, 2013	65,000		December 1, 2023	90,000	
December 1, 2014	70,000		December 1, 2024	95,000	
December 1, 2015	70,000		December 1, 2025	95,000	
December 1, 2016	75,000		December 1, 2026	15,000	
December 1, 2017	75,000		December 1, 2027	15,000	
December 1, 2018	80,000		December 1, 2028	15,000	
December 1, 2019	80,000		December 1, 2029	15,000	
December 1, 2020	85,000		December 1, 2030	15,000	

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00016 – City zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”); generally located northeast of the intersection of Pawnee Avenue and Seneca Street (2256 S. Seneca St.). (District IV)

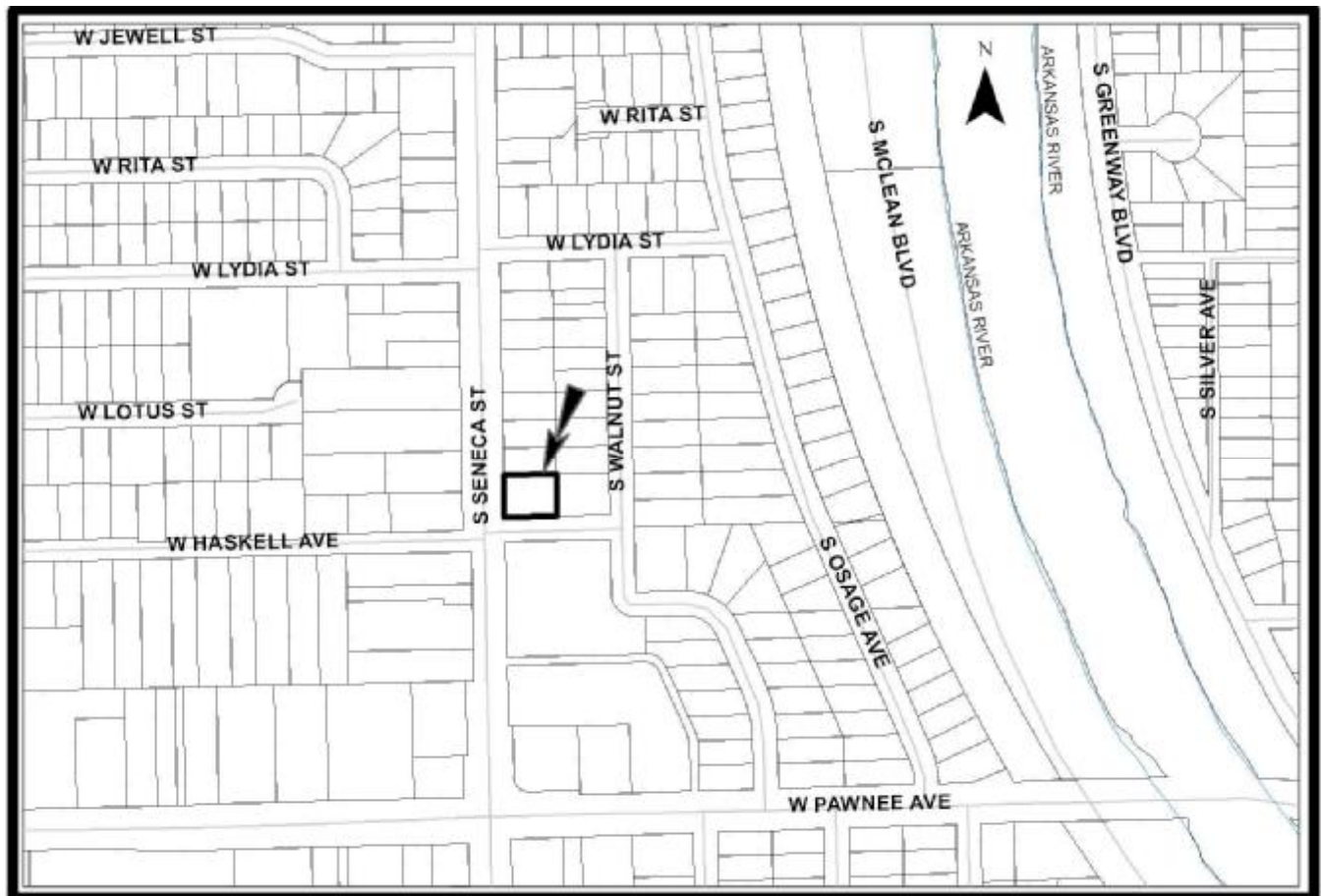
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

DAB IV Recommendation: Approve, subject to provisions of Protective Overlay #242, vote (5-1).

MAPC Recommendation: Approve, subject to provisions of Protective Overlay #242, vote (10-3).

MAPD Staff Recommendation: Denial.



Background: The applicant is requesting LC Limited Commercial (“LC”) zoning on Lot 5, Block B, Lloyd E. Nichols Addition (2256 S. Seneca Street). The site is currently zoned SF-5 Single-family Residential (“SF-5”) and is developed with a single-family residence and one accessory garage of approximately 875 square feet in size. The applicant proposes to operate a “vehicle repair, limited,” use out of the accessory garage on the southeast portion of the property.

The proposed use of “vehicle repair, limited,” is a unique request in a predominately residential area. Such uses are allowed with a Conditional Use in the county for a home occupation; however, properties in the city are not afforded that option due to the density of residential areas within the city and the negative impacts such a use can have on a residential neighborhood. The site is located on an arterial, Seneca Street, and LC zoning is located directly to the west of the subject site, across Seneca Street; however, the east side of Seneca is developed with residential uses for almost a half mile north and south along Seneca Street, extending to the east towards the old railroad right-of-way and McLean Boulevard. Commercial uses in an established residential area can increase traffic in the neighborhood, produce more noise than a typical residential use, and with the case of a vehicle repair operation, there is also the possibility of increased contaminants (oil, gas, antifreeze, brake fluid, etc.) in the area. For a commercial use, specifically a “vehicle repair, limited,” use, the structure in which the operation is to be conducted will have to be improved to commercial building standards and any other additional building standards needed to properly operate a vehicle repair use.

Property north of the site is zoned SF-5 and is developed with a single-family residence. Property to the east is zoned SF-5 and is also developed with a single-family residence. Property to the south of the subject site, across Haskell Avenue, is zoned SF-5 and is developed with a church/place of worship. Property to the west of the site, across Seneca Street, is zoned LC and is developed with restaurants.

Analysis: At the DAB IV meeting held on June 2, 2010, the DAB voted (5-1) to recommend approval of the request for LC zoning with a Protective Overlay. The case was approved, even though the DAB did have concerns with parking and noise. One person from the public spoke against the application.

At the MAPC meeting held on June 17, 2010, the MAPC voted (10-3) to recommend approval of the request for LC zoning with a Protective Overlay. The commissioners’ main concerns were in regards to the containment of fluids from vehicles and how/when code enforcement will inspect the site to make sure the provisions of the Protective Overlay are met.

One protest petition has been filed on this case accounting for 0.69% of the notified land area. Therefore, a simple majority vote is all that is needed to the MAPC’s recommendation for approval.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject to the provisions of Protective Overlay #242; and withhold publication of the ordinance until conditions of the protective overlay are met;

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00016

Zone change request from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") subject to Protective Overlay #242 on properties described as:

Lot 5, Block B, Lloyd E. Nichols Addition, Wichita, Sedgwick County, Kansas; generally located northeast of the intersection of Pawnee Avenue and Seneca Street (2256 S. Seneca St.)

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #242:

1. Dedicate complete access control along the site's Haskell Street frontage.
2. Provide a landscape/site plan for approval that would insure that landscaping is installed per the standards of the Landscape Ordinance's street yard landscaping and a landscape buffer between the site and the abutting and adjacent SF-5 zoned properties.
3. All outside lighting shall be no taller than 14-feet and located outside all setbacks.
4. Automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul are not allowed. Uses allowed under the "vehicle repair, general." designation are prohibited unless there is a zoned change to GC General Commercial ("GC").
5. All vehicle repair activity will be conducted entirely within an enclosed structure. The outdoor storage of vehicles, parts or equipment is prohibited.
6. All fluids associated with the vehicle repair, limited, use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.
7. All dumpsters shall be screened, have a gated entry and shall not be visible from South Seneca Street or Haskell Avenue.
8. Signage is limited to signage permitted in the NO Neighborhood Office ("NO") zoning district.
9. The site shall be developed and operated in conformance with all compatibility setback standards and parking requirements.
10. The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes. The use may begin operation only when fully compliant with all applicable codes.

11. The planting of required landscaping and all other provisions of the Protective Overlay will be implemented within 90 days of approval by the Governing Body or the zoning will be considered null and void.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 27th day of July, 2010.

ATTEST:

Karen Sublett, City Clerk

Carl Brewer, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf, Director of Law



INTEROFFICE MEMORANDUM

TO: Wichita City Council
MAPC Members

FROM: Kelli Glassman, Neighborhood Assistant, District 4

SUBJECT: ZON2010-00016

DATE: June 8, 2010

On Wednesday, June 2, 2010, the *District Advisory Board (DAB) for Council District 4* considered this zone change from SF-5 Single-Family Residential to LC Limited Commercial, generally located northeast of the intersection of Pawnee and Seneca (2256 S. Seneca.)

The DAB Members were provided the public notice and MAPD staff comments for review.

Staff and citizens present stated that they are recommending denial of the request due to a desire to keep the existing residential area in tact. It was explained that if there were plans to similarly develop the entire block, then the request would be more likely to be supported. However, as the request stands, there is concern for parking and noise issues if the request is granted.

DAB members voted 5-1 to recommend approval of the zone change request.

Please review this information when this request is considered.

Re: C 2010 001 6

To Whom It May Concern:

I am writing to protest the proposed zoning to commercial at 2256 S. Seneca. I have several concerns as to why I am opposed.

To begin with:

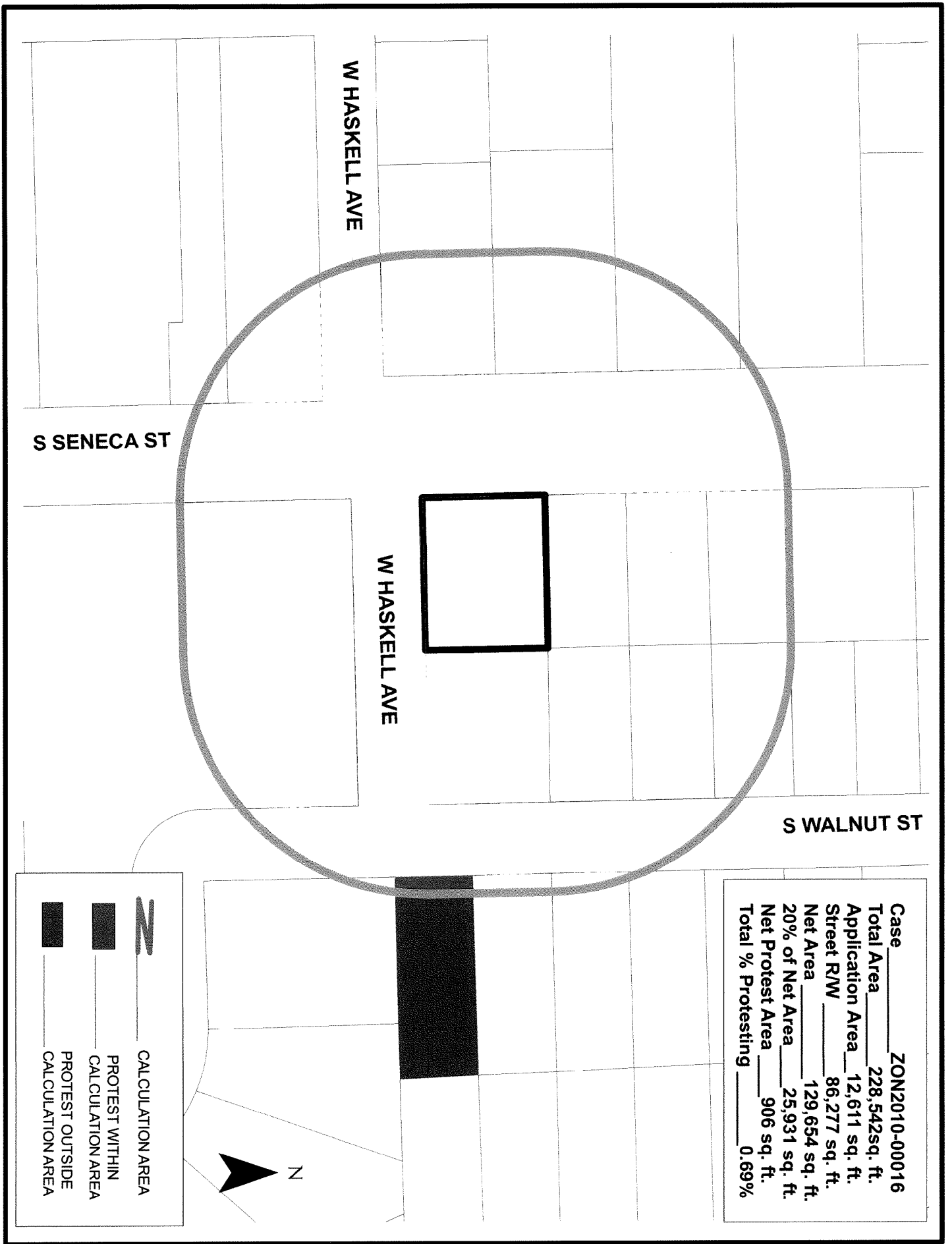
1. The traffic at the corner of Seneca and Haskell is really dangerous. The turn lane facilitates many business s side by side at that intersection (Kimmy's Diner, Taco Grande, O'Reiley's, etc.). On a daily basis, in the center lane as I am trying to turn on Haskell, I am nearly in a head on collision. People don't use the turn lane properly.
2. On said property, there are several untagged vehicles in which they try to cover up by parking a tagged vehicle behind them. They have also have been running a business without being zoned.
3. The house is in need of painting and other upkeep.
4. The traffic in front of my house will be directly affected, as Haskell St is directly in front of my home.
5. There is questionable activity that goes on at the house. On several occasions, I have observed what seems to be a very expensive car drop off (in front of my house) women, who are dressed out of context . The woman (women) walk from in front of my house (1/2 block away)to said address at 2256 S. Seneca. Sometimes the car will drive around the block several times waiting on the woman to come out and other times they drop her off in front of my house or park on Haskell Street waiting for her.

I will not be able to attend the meeting on June 17th, as I am a Registered Nurse at the VA and it is difficult to find coverage for my department, however; someone could read my letter , if needed.

Sincerely,



Kahla Pracht



EXCERPT OF THE JUNE 17, 2010 MAPC HEARING

Case No.: ZON2010-16 - Christy Masih (Owner/Applicant) Gene Bowen (Agent)
Request City zone change from SF-5 Single Family Residential to LC Limited
Commercial on property described as;

Lot 5, Block B, Lloyd E. Nichols Addition, Wichita, Sedgwick County, Kansas,
generally located northeast of the intersection of Pawnee Avenue and Seneca Street (2256 S. Seneca St.).

BACKGROUND: The applicant is requesting LC Limited Commercial (“LC”) zoning on Lot 5, Block B, Lloyd E. Nichols Addition (2256 S. Seneca Street). The site is currently zoned SF-5 Single-family Residential (“SF-5”) and is developed with a single-family residence and one accessory garage of approximately 875 square feet in size. The applicant proposes to operate a “vehicle repair, limited,” use out of the accessory garage on the southeast portion of the property.

The proposed use of “vehicle repair, limited,” is a unique request in a predominately residential area. Such uses are allowed with a Conditional Use in the county for a home occupation; however, properties in the city are not afforded that option due to the density of residential areas within the city and the negative impacts such a use can have on a residential neighborhood. The site is located on an arterial, Seneca Street, and LC zoning is located directly to the west of the subject site, across Seneca Street; however, the east side of Seneca is developed with residential uses for almost a half mile north and south along Seneca, extending to the east towards the old railroad right-of-way and McLean Boulevard. Commercial uses in an established residential area can increase traffic in the neighborhood, produce more noise than a typical residential use, and with the case of a vehicle repair operation, there is also the possibility of increased contaminants (oil, gas, antifreeze, brake fluid, etc.) in the area. For a commercial use, specifically a “vehicle repair, limited,” use, the structure in which the operation is to be conducted will have to be improved to commercial building standards and any other additional building standards needed to properly operate a vehicle repair use.

Property north of the site is zoned SF-5 and is developed with a single-family residence. Property to the east is zoned SF-5, and is also developed with a single-family residence. Property to the south of the subject site, across Haskell Avenue, is zoned SF-5 and is developed with a church/place of worship. Property to the west of the site, across Seneca Street, is zoned LC and is developed with restaurants.

CASE HISTORY: The application area is platted as the Lot 5, Block B, Lloyd E. Nichols Addition, recorded July 9, 1955. There have been no other land use cases at this site.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residence
SOUTH:	SF-5	Church/Place of Worship
EAST:	SF-5	Single-family Residence
WEST:	LC	Restaurant

PUBLIC SERVICES: South Seneca Street, along the west side of the subject site and the main access point to the site, is a paved five-lane principal arterial with approximately 43,500 average daily trips. The nearest major intersection, West Pawnee Avenue and South Seneca Street, is located approximately 675-feet south of the subject site. West Pawnee Avenue is a paved four-lane principal arterial with approximately 37,500 average daily trips. All municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Urban Residential is a category that encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

The Commercial Locational Guidelines (vehicle repair limited is considered a commercial use) of the Comprehensive Plan recommend:

1. Commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion.
2. The location of major commercial uses should be coordinated with mass transit routes, high-density residential, employment and other intensive uses.
3. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.
4. Locate commercial uses in compact clusters or nodes versus extended strip developments.
5. Commercially-generated traffic should not feed directly onto local residential streets.
6. Commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

The Unified Zoning Code (UZO) requires screening between single-family residential development and the proposed development on this site, and would require setbacks from all property lines. The Landscape Ordinance requires a landscape plan for the proposed development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned

SF-5 and is developed with a single-family residence. Property to the east is zoned SF-5 and is also developed with a single-family residence. Property to the south of the subject site, across Haskell Avenue, is zoned SF-5 and is developed with a church/place of worship. Property to the west of the site, across Seneca Street, is zoned LC and is developed with restaurants.

2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned SF-5. The site could continue to be used as currently zoned as the SF-5 district is the predominant zoning for the property east of Seneca Street at this location and a number of single-family residential uses exist in the general proximity of the application area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This is a single-family residential neighborhood and the proposed LC zoning is out of character with it. The proposed rezoning could encourage a slow stripping out of this portion of Seneca. Code requirements for compatibility setbacks, screening, landscaping, access and imposing signage limitations could minimize the impact on residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential” use. Urban Residential is a category that encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The request is not consistent with the Comprehensive Plan’s designation for “Urban Residential” uses.
5. Impact of the proposed development on community facilities: The request will likely increase commercial traffic along Haskell Avenue, as well as the possibility of increased noise and light nuisances up against existing residential properties.

However, if the MAPC finds the requested LC zoning appropriate, Staff recommends that the following Protective Overlay, “P-O”;

- (1) Dedicate complete access control along the site’s Haskell Street frontage.
- (2) Provide a landscape/site plan for approval that would insure that landscaping be installed per the standards of the Landscape Ordinance’s street yard landscaping and a landscape buffer between it and the abutting and adjacent SF-5 zoned properties; the exception to the Landscape Ordinance does not apply to this site.

- (3) All outside lighting shall be no taller than 14-feet and located outside all setbacks.
- (4) Automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul is not allowed for a vehicle repair, limited, operation. Those uses are only allowed under the vehicle repair, general, designation which would require a zone change to GC General Commercial ("GC").
- (5) All vehicle repair activity will be conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment.
- (6) All fluids associated with the vehicle repair, limited, use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.
- (7) All dumpsters have a wooden fence with a gate around them and not are visible from S. Seneca Street or Haskell Avenue.
- (8) Signage is limited to what is permitted in the NO Neighborhood Office ("NO") zoning district.
- (9) All compatibility setbacks would be in effect as well as all parking requirements.
- (10) The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes. The use may begin operation only when fully compliant with all applicable codes.
- (11) The planting and all other provisions of the Protective Overlay will be implemented within 90 days of approval by the Governing Body or the zoning will be considered null and void.

DALE MILLER, Planning Staff presented the Staff Report. He reported that staff recommended denial of the application; however, DAB IV recommended approval 5-1. He referred to a letter of opposition that was provided with the packet. He added that staff offered an alternative recommendation that would establish a protective overlay with conditions if the Planning Commission decided to approve the request.

GENE BOWEN, 5403 PEMBROOK, AGENT FOR THE APPLICANT said the applicant has been laid off and that he has been trying to find work for almost a year. He said he has been a mechanic all his life. He said they are requesting Limited Commercial zoning to allow him to perform minor auto repairs such as tune ups, tire changes, brake jobs, and small minor work at the garage. He said large projects such as engine overhauls he will refer to other people. He said this area is pretty much commercial all the way around.

MITCHELL asked if there was a reason the case is coming before the Commission. He asked if the applicant was doing this kind of work now.

BOWEN said the applicant is concerned about the legality of what he is doing, and does not want to continue to be on the left side of the City.

CHAIRMAN VAN FLEET asked if the applicant was in agreement with the 11 items that have been set forth in the alternative recommendations made by staff.

BOWEN said yes they are in agreement with the conditions and will do whatever is necessary.

CHARIMAN VAN FLEET referenced the Staff Report and clarified that if commercial use, specifically vehicle repair is approved, the building will have to be improved to commercial building standards. He asked if the applicant was willing to do that.

BOWEN said they are not sure what those standards are yet, but they will do what it takes to make it work.

MCKAY asked if the applicant has been cited by the City for something.

BOWEN said he had no knowledge of any citation.

MCKAY asked staff why the case was before the Commission and if the applicant had been given a citation by the City.

MILLER responded that it was Derrick Slocum's case and he was not sure what triggered the application.

MITCHELL asked staff if they had any idea what structural changes would have to be made in order to comply with the commercial building standards.

MILLER said he was not sure what was required; probably handicapped parking and paved parking but the requirements would be covered by the Building Code.

MITCHELL asked if the applicant cannot comply how will staff know that and when will it be enforced; who will check to insure the applicant is in compliance.

MILLER referenced the 90 day compliance period mentioned in the Staff Report. He said any code enforcement would be handled by the Office of Central Inspection (OCI).

FARNEY referenced item #6 regarding fluids, and asked that all items be stored inside the building instead of outside.

BOWEN said this is an oversized garage, but another storage unit could be placed adjacent to it.

MCKAY suggested since there were so many unknowns about the requirements of the City Building Code that the item be deferred a couple of weeks to allow the applicant to check with OCI and find out exactly what the requirements were because it may not be cost effective to try to do this at that location.

BOWEN said his client has been out of work since last fall with zero income so they would like to resolve the zoning issue fairly quickly and meet any requirements that were needed to make the operation legal and make it happen.

MCKAY said there were many unknowns and he was simply suggesting the applicant and agent find out what those were.

BOWEN said in the development review meeting they looked at some of the issues including parking, paving, and the approach from the south side of the property. He said they feel they will be more than able to satisfy those issues.

CHARLES STOOPS, 923 SOUTH WASHINGTON, WELLINGTON, KANSAS said he owns the property to the north next door and that he lived in it until 1995 when he moved to Wellington. He said he would like to see approval of the Limited Commercial zoning because he feels the change is a good thing for the neighborhood. He said this is a very busy and dangerous street for residential housing and added that in the future this area will probably all be commercial property. He said this seems like an ideal location. He concluded by saying that he has rented his property for the last 15 years and that the applicant is very considerate of his neighbors.

CHAIRMAN VAN FLEET referred Commissioners to a protest petition from the resident at 2254 South Walnut who opposes the application.

MOTION: To approve subject to staff recommendation.

HILLMAN moved, **JOHNSON** seconded the motion.

FARNEY asked the motion maker if they would add that any fluids be stored inside a structure, whether it was this garage or another structure; whatever the Fire Marshall recommends.

DENNIS said he believed Commissioners were misreading item #6. He said he would not like the Commission to direct the applicant to do anything that was contrary to local, state, or federal regulations.

The motion carried (10-3).

DOWNING, MILLER STEVENS, MITCHELL – No.

**CITY OF WICHITA
City Council Meeting
July 20, 2010**

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreement No. 3
AECOM Program Management Services
Air Capital Terminal 3 Project

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve Supplemental Agreement No. 3.

Background: A contract with AECOM to provide Program Management Services for the Air Capital Terminal 3 Project was approved by the Wichita Airport Authority (WAA) on June 7, 2005. Supplemental Agreement No. 1 was approved on February 9, 2010, and Supplemental Agreement No. 2 was approved on March 9, 2010.

Analysis: The original contract period ran for 60 months (from July 11, 2005 through July 11, 2010). It is necessary to extend AECOM's contract while the terminal financial review is underway, and to provide services with other ongoing terminal-related projects and addressing issues that arise that are terminal related whether from the Design Team, staff, Federal Aviation Administration (FAA), Transportation Security Administration (TSA), etc. and to provide assistance during the bidding phase. The contract includes an immediate termination clause in the event the project is abandoned or significantly delayed prior to the end of the requested six month extension period.

Financial Considerations: The not-to-exceed cost for this Supplemental Agreement is \$574,668, which is based on an average fully burdened hourly rate of \$95.78. In compliance with original contract with AECOM this supplemental agreement is prepared in an FAA acceptable cost-plus-fixed-fee format. That type of contract calls for the actual cost incurred by the consultant to be reimbursed to them and they are allowed a fixed fee of a certain % as their profit. In this supplemental agreement, the fixed fee is 10% of their direct labor costs and amounts to \$48,812. If the supplemental agreement is terminated prior to the end of the six month extension period then the fixed fee will be prorated. This amount can be covered by the current budget for the Air Capital Terminal 3 Project; therefore no budget increase is required at this time. The total contract is summarized below:

	<u>Amount</u>	<u>Description</u>	<u>Date</u>
Contract	\$4,552,857	Program Manager Contract	5/31/2005
SA#1	21,521	Terminal Security Cameras Const. Phase Services	2/9/2010
SA#2	445,094	Contract Amendments	3/9/2010
SA#3	<u>574,668</u>	Six-Month Time Extension	7/20/2010
	\$5,594,140	Total Fee	

Goal Impact: The construction of the new passenger terminal contributes to the Economic Vitality of Wichita.

Legal Considerations: The Law Department has approved this Supplemental Agreement as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve Supplemental Agreement No. 3 with AECOM and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 3.

Supplemental Agreement #3

To The

Agreement for Professional Services Dated June 7, 2005

Between

Wichita Airport Authority, Wichita, Kansas

Party of the First Part, Hereinafter Called The

“Owner”

And

AECOM

Party of the Second Part, Hereinafter Called The

“Program Manager”

WITNESSETH:

Whereas, there now exists a Contract dated June 7, 2005, Supplemental Agreement #1 dated February 9, 2010 and Supplemental Agreement #2 dated March 9, 2010, between the two parties covering Program Management services to be provided by the Program Manager in conjunction with the Terminal Area Redevelopment Program at Wichita Mid-Continent Airport.

Whereas, the Contract expires on July 11, 2010, and it is the desire of both parties that the Contract be extended as noted below.

Now, THEREFORE, the parties hereto mutually agree as follows:

The Program Management Contract will be amended with this Supplemental Agreement to include the following:

A. PAYMENT PROVISIONS

ARTICLE VII, Paragraph A, is hereby amended to include payment to the Program Manager for the performance of an extension of services allowed by this Agreement which shall be made on the basis of actual costs plus a fixed fee amount in accordance with the Contract and based on Exhibit A – Cost Proposal. The total compensation for the extension of shall be at a not-to-exceed amount of \$574,668.00 (\$525,856.00 for cost plus a fixed fee in the amount of

\$48,812.00). Should termination occur within the duration of the time extension the fixed fee shall be prorated over the duration of the time extension.

ARTICLE VII, Paragraph B, is hereby amended to extend the current Program Management Services for a period of six months from July 12, 2010 through January 11, 2011.

B. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract not specifically modified by this Supplemental Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the Owner and the Program Manager have executed this Supplemental Agreement as of this _____ 2010.

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Karen Sublett, City Clerk

By: _____
Carl Brewer, President

By: _____
Victor White, Director of Airports

ATTEST:

AECOM
2202 N. West Shore Boulevard, Suite 455
Tampa, FL 33607

By: _____

By: _____

Title: _____

Title: _____

Approved As To Form: _____ Date: _____
Director of Law

Attachment: Exhibit A – Cost Proposal

EXHIBIT A - COST PROPOSAL

1.	Direct Salary Cost						
	Staff Member or Title	Hours	Field/ Home Office	FTE		Rate/ Hour	Direct Salary Cost
1.	Program Manager	977.6	Field	1.00		76.17	\$74,464
2.	Project Principal	78.0	Field	0.08		85.00	\$6,630
3.	Assistant Program Manager	977.6	Field	1.00		26.91	\$26,307
4.	Constructability Review Manager	624.0	Field	0.64		43.05	\$26,863
5.	Design Review Manager	624.0	Field	0.64		43.05	\$26,863
6.	Project Controls	733.2	Field	0.75		27.42	\$20,104
7.	Scheduler	977.6	Field	1.00		30.00	\$29,328
8.	Home Office Support	104.0	Home	0.11		80.00	\$8,320
		4,992	Field				210,560
		104	Home				8,320
		5,096	Total				\$218,880
	Salary Escalation			3.50%	0.0 yrs	0.00%	\$0
				Total Direct Salary Cost			\$218,880
2.	Labor and General & Administrative Costs	Field		Home			
		121.51%		160.88%			
		255,851		13,385			\$269,236
3.	Subtotal of Items 1 and 2			Fully Burdened Labor			\$488,116
4.	Fixed Payment	10.00%	of Item 4				\$48,812
	Total for Direct Labor						\$536,928
5.	Direct Nonsalary Expenses						
	Supplies	\$50 /wk		26.0 wks		\$1,300	
	Communications & IT	\$100 /wk		26.0 wks		\$2,600	
	Meetings	\$10 /wk		26.0 wks		\$260	
	Travel	\$100 /wk		26.0 wks		\$2,600	
	Vehicle	\$50 /wk		26.0 wks		\$1,300	
	Others						
		1.7%	Total Direct Nonsalary Expenses				\$8,060
6.	Subcontract Cost	Hours		Labor	ODC	Total	
	Civil Technology	624.0	\$47.00/hr	\$29,328	\$352	\$29,680	
	Other Consultants						
				Total Subcontract Cost			\$29,680
7.	Total Cost (Items 1 and 2						\$574,668

**PRELIMINARY ESTIMATES
FOR CITY COUNCIL JULY 20, 2010**

- a. 2010 Contract Maintenance Mill or Strip & Overlay, Phase 2 (north of 63rd Street South, east of 135th Street West) (472-84906/132723/620552/636234/133116/) Traffic will be maintained using flagpersons and barricades. (District I,II,III,IV,V,VI) - \$1,294,200.00

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Petition to construct a Sanitary Sewer Lift Station and Force Main for Southwest Passage and Red Rock Village Additions (south of Pawnee, west of 119th Street West) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new petition.

Background: On July 14, 2009, the City Council approved a petition to construct a sanitary sewer for Southwest Passage Addition and Red Rock Village Addition. On June 8, 2010, the City Council approved a new petition to increase the project budget. An attempt to award a construction contract within the budget set by the petition was not successful. The developers have submitted another petition with an increased budget. The signatures on the new petition represent four of ten property owners representing 96% of the improvement district area. The assessment to the non-signing property owners has not increased.

Analysis: The project will serve new residential developments located south of Pawnee, west of 119th Street West.

Financial Considerations: The existing petition totals \$244,500 with the total assessed to the improvement district. The new petition totals \$257,500 with the total assessed to the improvement district.

Goal Impact: The project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements for new residential development.

Legal Considerations: State Statutes provide that a petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new petition, adopt the resolution and authorize the necessary signatures.

Attachments: CIP sheet, petition and resolution.

**CAPITAL IMPROVEMENT
PROJECT AUTHORIZATION
CITY OF WICHITA**

USK

To Initiate Project

To Revise Project

a

1. Prepare in triplicate.
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location	
Public Works	Eng	6/28/2010	Sanitary Sewer Lift Station/Force Main at Southwest Passage & Red Rock Village Address	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date	
NI-200424		2010		
9. Estimated Start Date (As Required)	10. Estimated Completion Date (As Required)	11. Project Revised		
12. Project Cost Estimate		12A.		
ITEM	CO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & curbs				
Bridge & Culverts				
Drainage				
Sanitary Sewer		\$257,500		\$257,500
Sidewalk				
Water				
Streetscape				
Totals		\$257,500		\$257,500
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the Petition and Adopt Resolution				
Division Head	Department Head		Budget Officer	City Manager
			Date	Date

First Published in the Wichita Eagle on July 23, 2010

RESOLUTION NO. 10-193

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF MAIN 6, COWSKIN INTERCEPTOR SEWER FORCE MAIN (SOUTH OF PAWNEE, WEST OF 119TH ST. WEST) 468-84227 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING AND RESOLUTION AUTHORIZING CONSTRUCTION OF MAIN 6, COWSKIN INTERCEPTOR SEWER FORCE MAIN (SOUTH OF PAWNEE, WEST OF 119TH ST. WEST) 468-84227 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO- WIT:

SECTION 1. That Resolution No. 07-020 adopted on January 9, 2007, Resolution No. 09-203 adopted on July 14, 2009 and Resolution No. 10-198 adopted on June 8, 2010 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Main 6, Cowskin Interceptor Sewer Force Main (south of Pawnee, west of 119th St. West) 468-84227.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for hereof is estimated to be One Hundred Seventy-Nine Thousand Dollars (\$179,000), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after June 1, 2010, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of a future sanitary sewer main, such benefit fee to be in the amount of Seventy Eight Thousand Five Hundred Dollars (\$78,500).

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

SOUTHWEST PASSAGE ADDITION

Lots 1 through 3, Block 1
Lots 1 through 5, Block 2
Lots 1 through 2, Block 3
Lots 1 through 15, Block 4
Lots 1 through 12, Block 5

RED ROCK VILLAGE

Lots 1 through 14, Block 1
Lots 1 through 6, Block 2
Lots 1 through 14, Block 3
Lots 1 through 9, Block 4

SECTION 5. That the method of apportioning all costs of said improvements attributable to the owners of land liable for assessment shall be on a fractional basis.

That the method of assessment of all costs of the improvement for which the Benefit District shall be liable shall be on a fractional basis: Lots 6 and 13, Block 4; and Lot 6, Block 5; SOUTHWEST PASSAGE ADDITION, shall each pay 4/490th of the total cost of the improvement district; Lots 1 through 14, Block 1; Lots 1 through 6, Block 2; Lots 1 through 14, Block 3; and Lots 1 through 9, Block 4; RED ROCK VILLAGE ADDITION shall each pay 9/490th114th of the total cost of the improvement district. Lots 1 through 3, Block 1; Lots 1 through 5, Block 2; Lots 1 through 2, Block 3; Lots 1 through 5, 7 through 12 and 14 through 15, Block 4; and Lots 1 through 5 and 7 through 12, Block 5; SOUTHWEST PASSAGE ADDITION shall each pay 9/490th of the total cost of the improvement district.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 20th day of July, 2010.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

RECEIVED

JUL 01 '10

CITY CLERK OFFICE

SANITARY SEWER MAIN AND LIFT STATION PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

SOUTHWEST PASSAGE ADDITION

Lots 1 - 3, Block 1
Lots 1 - 5, Block 2
Lots 1 - 2, Block 3
Lots 1 - 15, Block 4
Lots 1 - 12, Block 5

RED ROCK VILLAGE ADDITION

Lots 1 - 14, Block 1
Lots 1 - 6, Block 2
Lots 1 - 14, Block 3
Lots 1 - 9, Block 4

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a lift station and a force main to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas and an assessment for a sanitary sewer main to serve the area described above.
- (b) That the estimated and probable cost of the foregoing improvements being One Hundred Seventy Nine Thousand Dollars (\$179,000), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata rate of 1 percent per month from and after June 1, 2010.
- (c) That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of a future sanitary sewer main, such benefit fee to be in the amount of Seventy Eight Thousand Five Hundred Dollars (\$78,500).
- (d) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable, plus the benefit fee.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 12-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building which may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

SOUTHWEST PASSAGE ADDITION

Lot 2, Block 3

Lots 3 and 5, Block 4

Lots 8 and 12, Block 5

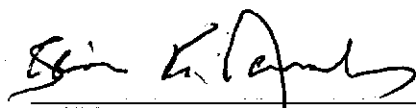

Development Partnership

Lot 1, Block 1

Lots 1, 2 and Part of Lot 3, Block 2

Lots 7, 10 and 11, Block 4

Lots 3 and 5, Block 5


Danahy Construction, Inc.

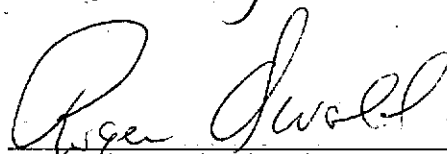
Lots 2 and 3, Block 1

Lot 5 & Part of Lot 4, Block 2

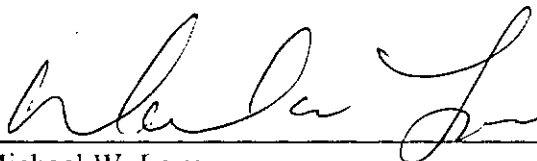
Lot 1, Block 3

Lots 1, 2, 4, 8, 12, 14 and 15, Block 4

Lots 1, 2, 9-11, Block 5


Roger Oswald Construction LLC

Parts of Lots 3 and 4, Block 2
Lot 9, Block 4
Lots 4 and 7, Block 5



Michael W. Love

Lot 6, Block 4

Larry & Billi Weber

Lot 13, Block 4

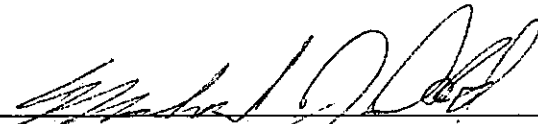
Joseph & Brittany Huffman

Lot 6, Block 5

Gregory & Kim Schoenfeld

RED ROCK VILLAGE ADDITION

Lots 1 - 14, Block 1
Lots 1 - 6, Block 2
Lots 1 - 14, Block 3
Lots 1 - 9, Block 4



Development Partnership, LLC

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief.

Chris Bokun
Name

924 N. Main
Address
Wichita KS 67203

264-8008
Telephone Number

Sworn to and subscribed before me this 1st day of July, 2010.



Chris Edwards, CMC
Deputy City Clerk

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Petition for Sanitary Sewer in The Gateway Center Addition (south of 13th, east of Greenwich) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

.....

Recommendation: Approve the petition.

Background: The petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will provide a sanitary sewer for a vacant commercial tract.

Financial Considerations: The petition totals \$61,000. The funding source is special assessments.

Goal Impact: The project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for commercial development.

Legal Considerations: State Statutes provide that a petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the petition, adopt the resolution and authorize the necessary signatures.

Attachments: Map, CIP sheet, petition and resolution.

**CAPITAL IMPROVEMENT
PROJECT AUTHORIZATION
CITY OF WICHITA**

USK

To Initiate Project

To Revise Project

1. Prepare in triplicate

2. Send original & 2 copies to budget

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department

6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location	
Public Works	Eng	6/18/2010	Sanitary Sewer in The Gateway Center 1st Addition	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date	
NI-200424		2010		
9. Estimated Start Date As Required	10. Estimated Completion Date As Required	11. Project Revised		
12. Project Cost Estimate			12A.	
ITEM	CO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & curbs				
Bridge & Culverts				
Drainage				
Sanitary Sewer		\$51,000		\$51,000
Sidewalk				
Water				
Streetscape				
Totals		\$51,000		\$51,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the Petition and Adopt Resolution				
Division Head	Department Head		Budget Officer	City Manager
			Date	Date

First Published in the Wichita Eagle on July 23, 2010

RESOLUTION NO. 10-194

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 425, FOUR MILE CREEK SEWER (SOUTH OF 13TH, EAST OF GREENWICH) 468-84686 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 425, FOUR MILE CREEK SEWER (SOUTH OF 13TH, EAST OF GREENWICH) 468-84686 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 425, Four Mile Creek Sewer (south of 13th, east of Greenwich) 468-84686.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Sixty-One Thousand Dollars (\$61,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after June 1, 2010, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

THE GATEWAY CENTER ADDITION

Tract "A"

Tract "A" Legal Description

Commencing at the Northeast Corner of Lot 5, Block 1, The Gateway Center 3rd Addition, An Addition to Wichita, Sedgwick County, Kansas; Thence Bearing N01°03'27"W, a distance of 5.00 feet; Thence Bearing N89°06'02"E, a distance of 119.39 feet to the Point of Beginning; Thence Bearing S00°53'58"E, a distance of 3.28 feet; Thence along a curve to the left (non tangent), having a radius of 18.50 feet, a chord bearing of S47°36'39"W, a chord distance of 24.51 feet and through a central angle of 82°58'46", an arc distance of 26.79 feet; Thence along a curve to the right (tangent), having a radius of 366.00 feet, a chord bearing of S16°30'40"W, a chord distance of 132.01 feet and through a central angle of 20°46'48", an arc distance of 132.74 feet; Thence along a curve to the left (tangent), having a radius of 108.00 feet, a chord bearing of S06°46'13"E, a chord distance of 119.76 feet and through a central angle of 67°20'32", an arc distance of 126.94 feet; Thence along a curve to the left (non tangent), having a radius of 18.50 feet, a chord bearing of S80°42'35"E, a chord distance of 23.92 feet and through a central angle of 80°32'12", an arc distance of 26.00 feet; Thence Bearing N59°01'19"E, a distance of 34.71 feet; Thence along a curve to the right (tangent), having a radius of 229.00 feet, a chord bearing of N65°32'10"E, a chord distance of 51.96 feet and through a central angle of 13°01'41", an arc distance of 52.07 feet; Thence Bearing N72°03'00"E, a distance of 8.61 feet; Thence along a curve to the right (tangent), having a radius of 425.00 feet, a chord bearing of N86°04'22"E, a chord distance of 205.96 feet and through a central angle of 28°02'43", an arc distance of 208.03 feet; Thence along a curve to the left (tangent), having a radius of 18.50 feet, a chord bearing of N56°54'10"E, a chord distance of 25.32 feet and through a central angle of 86°23'06", an arc distance of 27.89 feet; Thence Bearing N13°42'37"E, a distance of 7.44 feet; Thence Bearing N01°03'27"W, a distance of 196.59 feet; Thence Bearing S89°06'02"W, a distance of 292.25 feet to the Point of Beginning.

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

The method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: TRACT A shall pay the total cost payable by the improvement district.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 20th day of July, 2010.

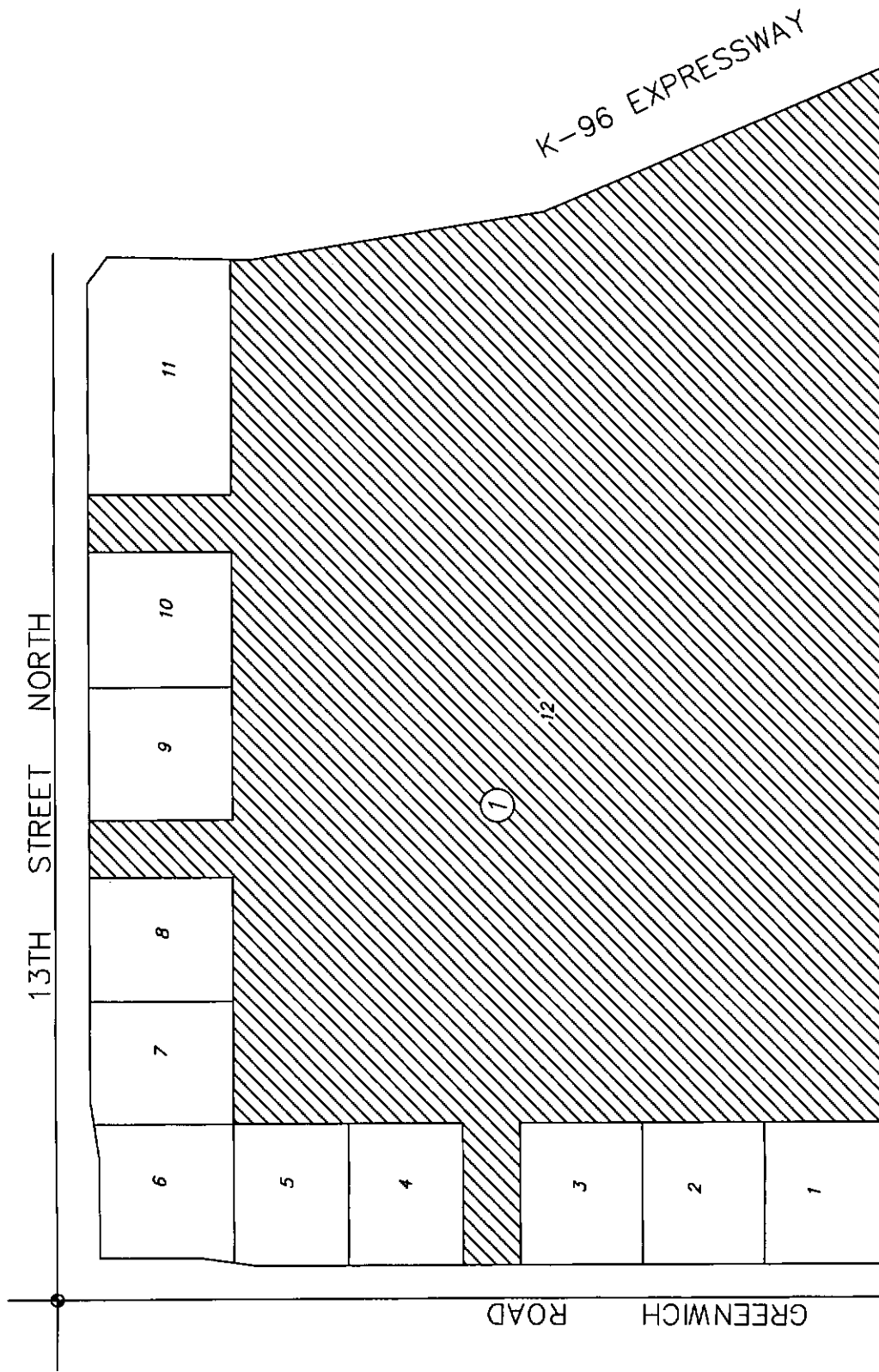
CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

THE GATEWAY CENTER ADDITION



PROPOSED IMPROVEMENT DISTRICT 
 (ACTUAL ALIGNMENT TO BE
 DETERMINED BY DESIGN ENGINEER)

\$

RECEIVED

MAY 26 '10

SANITARY SEWER PETITION

REC'D MAY 26 2010 (05/19/2010) CITY CLERK OFFICE

To the Mayor and City Council of the City of Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

Lateral 425,
FMC

THE GATEWAY CENTER ADDITION
Tract "A"

Tract "A" Legal Description

Commencing at the Northeast Corner of Lot 5, Block 1, The Gateway Center 3rd Addition, An Addition to Wichita, Sedgwick County, Kansas; Thence Bearing N01°03'27"W, a distance of 5.00 feet; Thence Bearing N89°06'02"E, a distance of 119.39 feet to the Point of Beginning; Thence Bearing S00°53'58"E, a distance of 3.28 feet; Thence along a curve to the left (non tangent), having a radius of 18.50 feet, a chord bearing of S47°36'39"W, a chord distance of 24.51 feet and through a central angle of 82°58'46", an arc distance of 26.79 feet; Thence along a curve to the right (tangent), having a radius of 366.00 feet, a chord bearing of S16°30'40"W, a chord distance of 132.01 feet and through a central angle of 20°46'48", an arc distance of 132.74 feet; Thence along a curve to the left (tangent), having a radius of 108.00 feet, a chord bearing of S06°46'13"E, a chord distance of 119.76 feet and through a central angle of 67°20'32", an arc distance of 126.94 feet; Thence along a curve to the left (non tangent), having a radius of 18.50 feet, a chord bearing of S80°42'35"E, a chord distance of 23.92 feet and through a central angle of 80°32'12", an arc distance of 26.00 feet; Thence Bearing N59°01'19"E, a distance of 34.71 feet; Thence along a curve to the right (tangent), having a radius of 229.00 feet, a chord bearing of N65°32'10"E, a chord distance of 51.96 feet and through a central angle of 13°01'41", an arc distance of 52.07 feet; Thence Bearing N72°03'00"E, a distance of 8.61 feet; Thence along a curve to the right (tangent), having a radius of 425.00 feet, a chord bearing of N86°04'22"E, a chord distance of 205.96 feet and through a central angle of 28°02'43", an arc distance of 208.03 feet; Thence along a curve to the left (tangent), having a radius of 18.50 feet, a chord bearing of N56°54'10"E, a chord distance of 25.32 feet and through a central angle of 86°23'06", an arc distance of 27.89 feet; Thence Bearing N13°42'37"E, a distance of 7.44 feet; Thence Bearing N01°03'27"W, a distance of 196.59 feet; Thence Bearing S89°06'02"W, a distance of 292.25 feet to the Point of Beginning.

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended as follows:

- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

468-84686

(south of 13th,
East of GREENWICH)

PEC Project No. 36-09691-6786

(b) That the estimated and probable cost of the foregoing improvements being Sixty One Thousand Dollars (\$61,000.00), with 100% percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata of 1 percent per month from and after June 1, 2010.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

That said Tract "A" shall pay the total cost payable by the improvement district.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.


2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

(b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

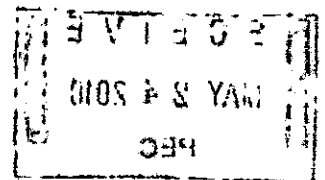
3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building which may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>TRACT "A"</u>	B.E.D. Concept, LLC.	
	By: <u></u>	
	Catherine DeSocio, Managing Member	

PEC Project No. 36-09691-6786



AFFIDAVIT

The undersigned, being duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Bob Hartman
Name

303 S. Topeka, Wichita, KS 67202
Address

(316) 262-2691
Telephone No.

Sworn to and subscribed before me this 26th day of May,
2010.



Deborah A. Dacklock
Deputy City Clerk

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Petition for Sanitary Sewer in Pearson Commercial Addition (east of Maize, south of 29th Street North) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

.....

Recommendation: Approve the petition.

Background: The petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will provide a sanitary sewer for an undeveloped commercial area.

Financial Considerations: The petition totals \$173,921. The funding source is special assessments.

Goal Impact: The project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements required for commercial development.

Legal Considerations: State Statutes provide that a petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the petition, adopt the resolution and authorize the necessary signatures.

Attachments: Map, CIP sheet, petition and resolution

.

**CAPITAL IMPROVEMENT
PROJECT AUTHORIZATION
CITY OF WICHITA**

USK

To Initiate Project

To Revise Project

1. Prepare in triplicate

2. Send original & 2 copies to budget

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department

6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location	
Public Works	Eng	6/28/2010	Sanitary Sewer in Peterson Creek area of Addition	
5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date	
NI-200424		2010		
9. Estimated Start Date (As Required)	10. Estimated Completion Date (As Required)	11. Project Revised		
12. Project Cost Estimate				12A.
ITEM	CO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & curbs				
Bridge & Culverts				
Drainage				
Sanitary Sewer		\$173,921		\$173,921
Sidewalk				
Water				
Streetscape				
Totals		\$173,921		\$173,921
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the Petition and Adopt Resolution				
Division Head	Department Head		Budget Officer	City Manager
			Date	Date

RESOLUTION NO. 10-195

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 5, MAIN 2, NORTHWEST INTERCEPTOR SEWER, (EAST OF MAIZE, SOUTH OF 29TH ST. NORTH) 468-84688 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 5, MAIN 2, NORTHWEST INTERCEPTOR SEWER, (EAST OF MAIZE, SOUTH OF 29TH ST. NORTH) 468-84688 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 5, Main 2, Northwest Interceptor Sewer, (east of Maize, south of 29th St. North) 468-84688.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be One Hundred Forty-Seven Thousand Dollars (\$147,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after July 1, 2009 exclusive of the costs of temporary financing.

That in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Twenty-Six Thousand Nine Hundred Twenty-One Dollars (\$26,921); and distributed on a square foot basis.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

PEARSON COMMERCIAL ADDITION

Lots 1, 4, 5, 6, and 7, Block 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lot 1, Block 1, PEARSON COMMERCIAL ADDITION, shall pay 67/100 of the total cost of the improvement; Lot 4, Block 1, PEARSON COMMERCIAL ADDITION shall pay 12/100 of the total cost of the improvement; Lot 5, Block 1, PEARSON COMMERCIAL ADDITION shall pay 5/100 of the total cost of the improvement; Lot 6, Block 1, PEARSON COMMERCIAL ADDITION shall pay 8/100 of the total cost of the improvement; Lot 7, Block 1, PEARSON COMMERCIAL ADDITION shall pay 8/100 of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 20th day of July, 2010.

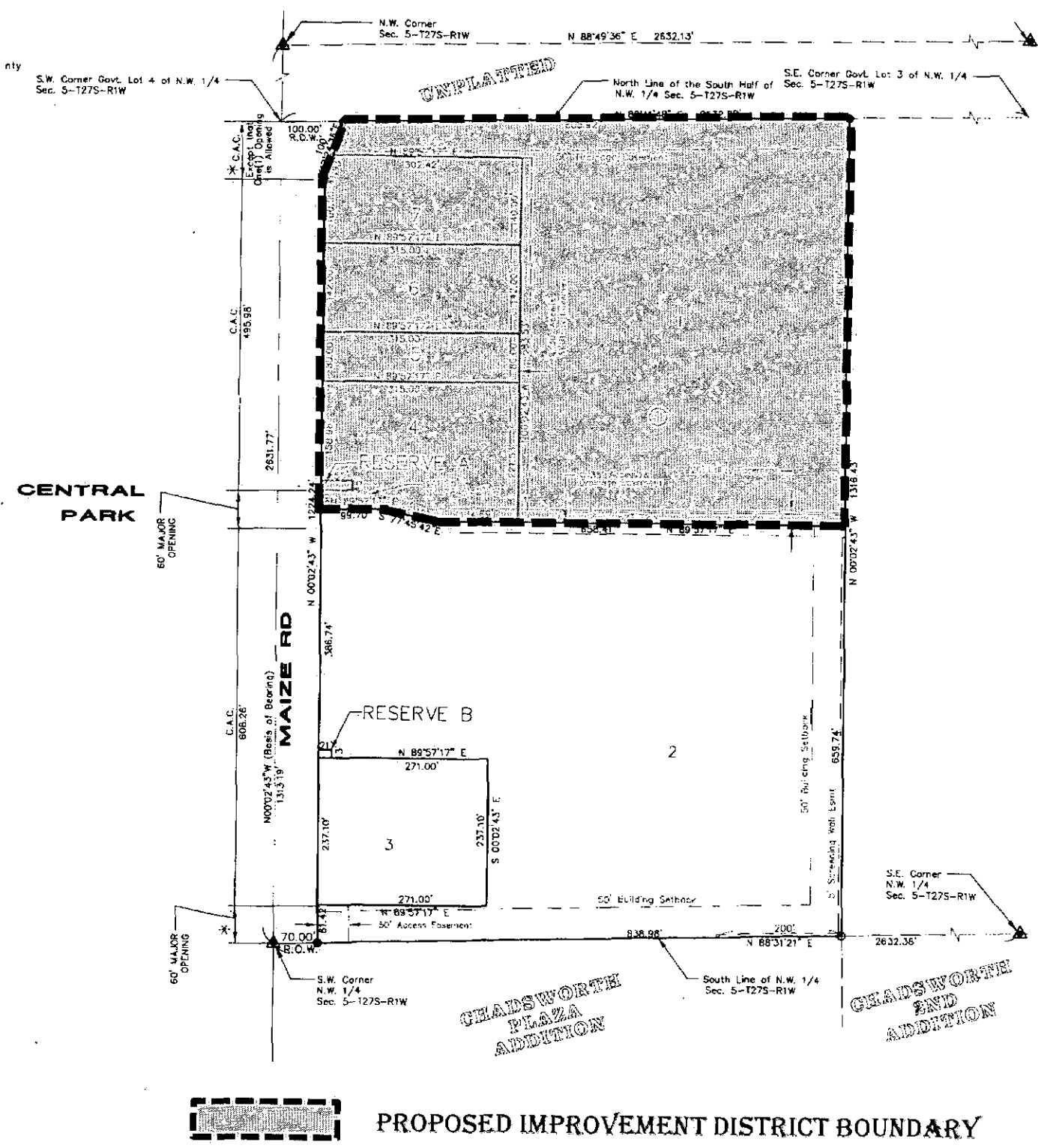
CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

PEARSON COMMERCIAL ADDITION



B

SANITARY SEWER PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

PEARSON COMMERCIAL ADDITION

Lots 1,4,5,6 & 7, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas.

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) Estimated and probable cost of the foregoing improvements being ONE HUNDRED FORTY-SEVEN THOUSAND DOLLARS (\$147,000), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro rata rate of 1 percent per month from and after July 1, 2010.
- (c) That in accordance with the provisions of K.S.A 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of TWENTY-SIX THOUSAND NINE HUNDRED TWENTY-ONE DOLLARS (\$26,921.00); and distributed on a square foot basis.
- (d) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

(East
of
Main,
North of
29th
St. North)

468-84688 Lateral 1 5, Main 2, NWI

Pearson Commercial Addition-Sanitary Sewer Petition
Project #08.0841

1

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (e) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

Lot 1, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas shall pay 67/100 of the total cost of the improvement.

Lot 4, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas shall pay 12/100 of the total cost of the improvement.

Lot 5, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas shall pay 5/100 of the total cost of the improvement.

Lot 6, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas shall pay 8/100 of the total cost of the improvement.

Lot 7, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas shall pay 8/100 of the total cost of the improvement.

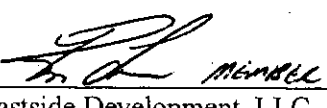
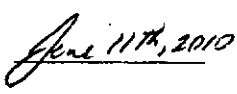
Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.

- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.
- 3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.
- 4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously

completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>PEARSON COMMERCIAL ADDITION</u> Lots 1,4,5,6 & 7, Block 1, Pearson Commercial Addition, Wichita, Sedgwick County, Kansas.	By:  Eastside Development, LLC A Kansas Limited Liability Co.	

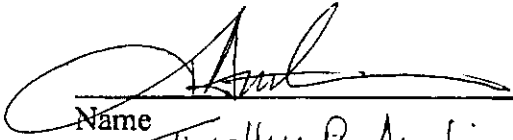
End of Petition

Pearson Commercial Addition-Sanitary Sewer Petition
Project #08.0841

3

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief.

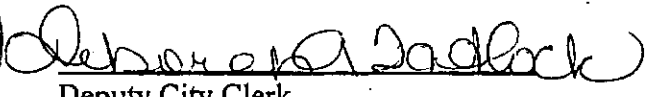

Name Timothy R. Austin

5940 E. Central, Wichita, KS
Address

316-685-4114
Telephone Number

Sworn to and subscribed before me this 15th day of June, 2010




Deputy City Clerk

July 20, 2010
Statements of Cost:

WATER

- a. Improving Water Distribution System to serve Johnson Commercial Centre Addition (south of 53rd Street North, west of Meridian). Total Cost - \$1,042.55 (plus idle fund interest - \$57.45, plus temporary note interest - \$0). Financing to be issued at this time - \$1,100.00. (735363/448-90273/470-036).
- b. Improving Water Distribution System to serve Monarch Landing 2nd Addition, Phase 2 and Phase 2A (north of 21st Street North, west of 159th Street East). Total Cost - \$57,540.91 (less idle fund interest - \$8.70, plus temporary note interest - \$67.79). Financing to be issued at this time - \$57,600.00. (735433/448-90335/470-106).
- c. Improving Water Distribution System to serve Sierra Hills 2nd Addition (north of Pawnee, west of 143rd Street East). Total Cost - \$36,570.42 (plus idle fund interest - \$7.89, plus temporary note interest - \$101.69, plus Benefit Fee - \$10,820.00). Financing to be issued at this time - \$47,500.00. (735427/448-90389/470-100).
- d. Improving Water Distribution System to serve Bellechase 2nd Addition (north of Harry, east of 127th Street East). Total Cost - \$75,348.09 (plus idle fund interest - \$14.26, plus temporary note interest - \$37.65). Financing to be issued at this time - \$75,400.00. (735431/448-90406/470-104).
- e. Improving Water Distribution System to serve Fontana 4th Addition (east of 119th Street West, north of 29th Street North). Total Cost - \$75,223.47 (plus idle fund interest - \$76.53, plus temporary note interest - \$0). Financing to be issued at this time - \$75,300.00. (735439/448-90426/470-112).

SEWER

- f. Constructing Lateral 2, Main 23, Southwest Interceptor Sewer to serve Emerald Bay and Emerald Bay 2nd Additions (west of West Street, north of 21st Street North). Total Cost - \$133,039.99 (plus idle fund interest - \$60.01, plus temporary note interest - \$0). Sewer Main Benefit Fee - \$0. Financing to be issued at this time - \$133,100.00. (744309/468-84209/480-001).
- g. Constructing Lateral 526, Southwest Interceptor Sewer to serve Fairlawn Acres Addition (south of Kellogg, west of Woodchuck). Total Cost - \$35,645.33 (plus idle fund interest - \$54.67, plus temporary note interest - \$0). Sewer Main Benefit Fee - \$6,700.00. Financing to be issued at this time - \$42,400.00. (744265/468-84420/480-954).
- h. Constructing Lateral 2, Main 24, Four Mile Creek Sewer to serve Monarch Landing 2nd Addition (north of 21st Street North, west of 159th Street East). Total Cost - \$82,119.99 (less idle fund interest - \$36.75, plus temporary note interest - \$116.76). Sewer Main Benefit Fee - \$0. Financing to be issued at this time - \$82,200.00. (744297/468-84433/480-986).
- i. Constructing Lateral 2, Main 21, Four Mile Creek Sewer to serve Sierra Hills 2nd Addition (north of Pawnee, west of 143rd Street East). Total Cost - \$101,598.49 (plus idle fund interest - \$84.05, plus temporary note interest - \$425.46). Sewer Main Benefit Fee - \$115,492.00. Financing to be issued at this time - \$217,600.00. (744292/468-84516/480-981).
- j. Constructing Lateral 59, Cowskin Interceptor Sewer to serve Goddard School 2nd Addition (north of Kellogg, east of 167th Street West). Total Cost - \$123,470.84 (less idle fund interest - \$4.84, plus temporary note interest - \$0). Sewer Main Benefit Fee - \$202,634.00. Financing to be issued at this time - \$326,100.00. (744300/468-84566/480-989).
- k. Constructing Lateral 7, Main 14, Four Mile Creek Sewer to serve Reed Commercial Addition (east of 127th Street East, south of 21st Street North). Total Cost - \$12,014.12 (plus idle fund interest - \$48.23, plus temporary note interest - \$37.65). Sewer Main Benefit Fee - \$0. Financing to be issued at this time - \$12,100.00. (744303/468-84583/480-992).

STORM WATER SEWER AND STORM WATER DRAIN

- l. Constructing Storm Water Drain No. 352 to serve Willow Creek East 2nd Addition (east of Greenwich, south of Harry). Total Cost - \$111,880.03 (plus idle fund interest - \$63.98, plus temporary note interest - \$455.99). Financing to be issued at this time - \$112,400.00. (751482/468-84555/485-373).

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Prairie Fire Marathon
(All Districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Bob Hansen, President CEO, Greater Wichita Area Sports Commission is coordinating with area business owners and making arrangements with staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Prairie Fire Marathon October 10, 2010 5:00 am – 3:00 pm

- § Lewis/Waterman, Main Street to McLean Boulevard
- § McLean Boulevard, Maple to Douglas Avenue
- § Douglas Avenue, McLean Boulevard to Clifton Avenue
- § Clifton Avenue, Douglas Avenue to Waterman Street
- § Waterman Street, Clifton Street to Bluff Street
- § Bluff Street, Waterman Street to Fountain Street
- § Fountain Street, Bluff Street to Lewis Street
- § Lewis Street, Fountain Street to Glendale Street
- § Glendale Street, Lewis Street to Waterman Street
- § Waterman Street, Glendale Street to Edgemoor Street
- § Edgemoor Street, Waterman Street to South Lexington Street
- § South Lexington Street, Edgemoor Street to South Ridgecrest
- § South Ridgecrest Street, South Lexington Street to Lynwood Street
- § Lynwood Street, South Ridgecrest Street to Hampton Street
- § Hampton Street, Lynwood Street to Lakeside Boulevard
- § Lakeside Blvd., Hampton Street to South Mission Drive
- § South Mission Drive, Lakeside Boulevard to Douglas Avenue
- § Douglas Avenue, South Mission Drive to Rutland Street
- § Rutland Street, Douglas Avenue to Huntington/Armour Avenue
- § Huntington/Armour Avenue, Rutland Street to Central Avenue
- § Central Avenue, Armour Avenue to North Doreen Street
- § North Doreen Street, Central Avenue to Donegal Street
- § Donegal Street, Doreen to Rock Road
- § Rock Road, Donegal Street to Polo Drive

§ Polo Drive, Rock Road to South Magill Street
 § South Magill Street, Path to Tallyrand Street
 § Tallyrand/10th Street, Path to Gretchen Lane
 § Gretchen Lane, 10th to Magill Street
 § Magill Street, Gretchen Lane to Armour Drive
 § Armour Drive, Magill Street to 11th Street
 § 11th Street, Armour Drive to Whitfield Lane
 § Whitfield Lane, 11th Street to Vincent Lane
 § Vincent Lane, Whitfield Lane to Brookfield Lane/Brookfield Drive
 § Brookfield Drive, Vincent Lane to Elm Street
 § Elm Street, Brookfield Drive to Armour Drive/Armour Avenue
 § Armour Avenue, Elm Street to Rockwood Road
 § Rockwood Road, Armour Avenue to Hampton Road
 § Hampton Road, Rockwood Road to East Norfolk Drive
 § East Norfolk Drive, Hampton Road to 2nd Street
 § 2nd Street, Norfolk Drive to Oliver Avenue
 § Oliver Avenue, 2nd Street to Oakland Street
 § Oakland Street, Oliver Street to Dellrose Street
 § Dellrose Street, Oakland Street to English Street
 § English Street, Dellrose Street to Clifton Avenue
 § Clifton Avenue, English Street to Douglas Avenue
 § Douglas Avenue, Clifton Avenue to Mosley Avenue
 § Mosley Avenue, Douglas Avenue to 2nd Street
 § 2nd Street, Mosley Avenue to Mead Avenue
 § Mead Avenue, 2nd Street to Moore Avenue
 § Moore Avenue, Mead Avenue to 2nd Street
 § 2nd Street, Moore Avenue to Emporia Avenue
 § Emporia Avenue, 2nd Street to Pine Street
 § Pine Street, Emporia Avenue to Santa Fe Street
 § Santa Fe Street, Pine Street to Murdock Avenue
 § Murdock Avenue, Santa Fe Street to Main Street
 § Main Street, Murdock Avenue to 8th Street
 § 8th Street, Main Street to Back Bay Boulevard
 § Back Bay Blvd., 8th Street to 9th Street
 § 9th Street, Back Bay Blvd. to Oak Park Drive
 § Oak Park Drive, 9th Street to Forest Avenue
 § Forest Avenue, Oak Park Drive to 11th Street
 § 11th Street, Forest Avenue to Carlos Avenue
 § Carlos Avenue, Forest Avenue to 12th Street
 § 12th Street, Carlos Avenue to Oak Park Drive
 § Oak Park Drive, 12th Street to 11th Street
 § 11th Street, Oak Park Drive to Woodrow Avenue
 § Woodrow Avenue, 11th Street to 12th Street
 § 12th Street, Woodrow Avenue to Amidon Avenue
 § Amidon Avenue, 12th Street to Sim Park Drive
 § Sim Park Drive, Amidon Avenue to Museum Blvd.
 § Museum Boulevard, Sim Park Drive to Stackman Drive
 § Stackman Drive, Museum Boulevard to Murdock Avenue
 § Murdock Avenue, Stackman Drive to Nims Avenue
 § Nims Avenue, Murdock Avenue to West River Boulevard
 § West River Boulevard, Nims Avenue to Murdock Avenue

- § Murdock Avenue, West River Boulevard to Main Street
- § Main Street, Murdock Avenue to 2nd Street
- § 2nd Street, Main Street to Greenway Boulevard
- § Greenway Boulevard, 2nd Street to Central Avenue
- § Central Avenue, Greenway Boulevard to Seneca Street
- § Seneca Street, Central Avenue to McLean Boulevard
- § McLean Boulevard, Seneca Street to Lewis Street

Promoter will arrange to remove barricades as necessary to allow emergency vehicle access during entire designated time period. Barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Goal Impact: Enhance the Quality of Life.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Prairie Fire Half Marathon
(All Districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Bob Hansen, President CEO, Greater Wichita Area Sports Commission is coordinating with area business owners and making arrangements with staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Prairie Fire Half Marathon October 10, 2010 5:00 am – 3:00 pm

- § Lewis/Waterman, Main Street to McLean Boulevard
- § McLean Boulevard, Maple to Douglas Avenue
- § Douglas Avenue, McLean Boulevard to Clifton Avenue
- § Clifton Avenue, Douglas Avenue to Waterman Street
- § Waterman Street, Clifton Street to Circle Drive
- § Circle Drive, Waterman to Bluff Street
- § Bluff Street, Circle Drive to Waterman Street
- § Waterman Street, Bluff Street to Fountain Street
- § Fountain Street, Waterman Street to Lewis Street
- § Lewis Street, Fountain Street to Glendale Street
- § Glendale Street, Lewis Street to Waterman Street
- § Waterman Street, Glendale Street to Battin Street
- § Battin Street, Waterman Street to Second Street
- § Second Street, Battin Street to Dellrose Street
- § Dellrose Street, Second Street to English Street
- § English Street, Dellrose Street to Circle Drive
- § Circle Drive, English Street to Oakland Street
- § Oakland Street, Circle Drive to Clifton Drive
- § Clifton Drive, Oakland Street to Douglas Avenue
- § Douglas Avenue, Clifton Avenue to Mosley Avenue
- § Mosley Avenue, Douglas Avenue to 2nd Street
- § 2nd Street, Mosley Avenue to Mead Avenue

- § Mead Avenue, 2nd Street to Moore Avenue
- § Moore Avenue, Mead Avenue to 2nd Street
- § 2nd Street, Moore Avenue to Emporia Avenue
- § Emporia Avenue, 2nd Street to Pine Street
- § Pine Street, Emporia Avenue to Santa Fe Street
- § Santa Fe Street, Pine Street to the Via Christi entrance
- § Via Christi entrance, Santa Fe to St. Francis
- § St. Francis, Via Christi entrance to Murdock Avenue
- § Murdock Avenue, St. Francis to Main Street
- § Main Street, Murdock Avenue to Second Street
- § Second Street, Main Street to Greenway Boulevard
- § Greenway Boulevard, Second Street to Central Avenue
- § Central Avenue, Greenway Boulevard to Seneca Street
- § Seneca Street, Central Avenue to McLean Boulevard
- § McLean Boulevard, Seneca Street to Lewis

The promoter will arrange to remove barricades as necessary to allow emergency vehicle access during entire designated time period. Barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Goal Impact: Enhance the Quality of Life.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council
SUBJECT: Community Events – WaterWalk JAM (District I)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Sharon Van Horn, WaterWalk Promotions Director is coordinating with area business owners and making arrangements with staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

WaterWalk JAM July 30, 2010 5:00 pm – 10:00 pm

§ South Water Street, Waterman to Dewey

The promoter will arrange to remove barricades as necessary to allow emergency vehicle access during entire designated time period. Barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Special Waste Disposal Site and Hauling Contract (All Districts)

INITIATED BY: Department of Water Utilities

AGENDA: Consent

Recommendations: Approve the contract.

Background: The current contract for the special waste disposal site and hauling with Waste Connections of Kansas, Inc. expires July 31, 2010. This contract is used by the sewage treatment staff for the disposal of grit and influent screenings. A Request for Proposal (FP030040) was issued for the selection of a new contractor. Requests were sent to 28 municipal solid waste sub-D landfills with one vendor responding.

Analysis: One proposal from Waste Connections of Kansas Inc. was received for these services. The proposed rate is \$30 per ton, which covers both the special waste disposal and hauling fees. The previous contract price was \$28 per ton, established July 1st, 2007. Staff completed a cost analysis and determined that this was a fair and reasonable price.

Financial Consideration: The estimated annual tonnage of special waste is 3,600 tons. By selecting Waste Connections of Kansas Inc. at \$30 per ton for the special waste disposal site and hauling, the annual cost will be \$108,000. Sewage Treatment staff anticipated this increase and provided available funding in the Water Utilities Sewage Treatment budget.

Goal Impact: This addresses the Efficient Infrastructure goal of by providing reliable, compliant, and secure utilities.

Legal Consideration: The Department of Law has approved the contract as to legal form.

Recommendations/Actions: It is recommended that the City Council approve the contract and authorize the necessary signatures.

Attachments: Contract.

CONTRACT
for
SPECIAL WASTE DISPOSAL FACILITY & HAULING
BLANKET PURCHASE ORDER NUMBER BP030064

THIS CONTRACT entered into this 20th day of July, 2010, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **WASTE CONNECTIONS OF KANSAS, INC. DBA PLUMB THICKET LANDFILL**, (Vendor Code Number 820771-004), whose principal office is at 440 NE 150th Road, Harper, Kansas, 67058, Telephone Number (620) 896-2229, hereinafter called "**VENDOR**".

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for Special Waste Disposal Facility (Formal Proposal-FP830040) [Commodity Code Number 98846]; and

WHEREAS, **VENDOR** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services. **VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number-FP030040 [Commodity Code Number 98846], which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal Number-FP030040, shall be considered a part of this contract and is incorporated by reference herein.

2. Compensation. **CITY** agrees to pay to **VENDOR** the following unit price for **Special Waste Disposal Facility & Hauling**, for Formal Proposal-FP030040 [Commodity Code Number 98846], for the Water Utilities Department, Sewage Treatment Division as shown below as compensation as per the proposal, plans, specifications, addenda and **VENDOR's** proposal of June 4, 2010, and as approved by the City Council on July 20, 2010.

<u>Description</u>	<u>Unit Cost</u>
Special Waste Disposal Facility and Hauling from Sewage Treatment.	\$30.00 per Ton

Billing Terms-New Thirty (30) Days

3. Term. The term of this contract shall effective from **August 1, 2010 through July 31, 2011** with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) day written notice to **VENDOR**.

4. Indemnification and Insurance.

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **VENDOR** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises-operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, (Environmental) and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
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Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
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Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate
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2. Automobile Liability-Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
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3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	\$100,000 each accident
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5. Independent Contractor. The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

6. Compliance with Laws. **VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. No Assignment. The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the **CITY**.

8. Non-Discrimination. **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment/Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

10. No Arbitration. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. Governing Law. This Contract shall be interpreted according to the laws of the State of Kansas.

12. Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF WICHITA, KANSAS

Karen Sublet,
City Clerk

Carl G. Brewer
Mayor

APPROVED AS TO FORM:

WASTE CONNECTIONS OF KANSAS, INC.

Gary E. Rebenstorf

Signature

Print Name

Title (President or Corporate Officer)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination—Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964 as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry.
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, “Equal Opportunity Employer”, or a similar phrase to be approved by the “Kansas Human Right Commission”;
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the “Kansas Human Rights Commission” in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency.
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the “Kansas Human Rights Commission” which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency.
 - 5. The contractor shall include the provision of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination –Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination—Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, “disability, and age except where age is a bona fide occupational qualification”, national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase “Equal Opportunity Employer”, or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination—Equal Employment Opportunity Requirements. If the vendor, supplier, contractor or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order to subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended I whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

CITY OF WICHITA
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 1700 West 47th Street South for the 47th Street South from Meridian to Seneca Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On December 9, 2008, the City Council approved funding to acquire right-of-way for a project to improve 47th Street South from Meridian to Seneca from two lanes with open ditches to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed in the available right of way. Ditches will be replaced with a curb and gutter storm water system and sidewalks will be built along both the north and south sides of 47th. The project requires the acquisition of a temporary easement during construction from the property identified as 1700 West 47th Street South. The site is zoned and improved with a single family residence. The residential improvements are removed from the temporary construction easement area however; the fencing, landscaping and trees will be impacted.

Analysis: A temporary construction easement is required at 1700 West 47th Street to allow for grading and the installation of the sidewalk within the existing right-of-way. The proposed easement consists of 685.1 square feet. The owner agreed to accept the appraised value of \$900 for the proposed acquisition, or \$0.15 per square foot. The remaining \$800 is for resetting the fence and for damages to the landscaping.

Financial Considerations: The funding source is General Obligations Bonds and Federal Grants administrated by the State. A budget of \$1,550 is requested. This includes \$900 for acquisition and \$650 for administrative costs such as title insurance and closing costs.

Goal Impact: The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

Legal Considerations: The Law Department has approved the real estate purchase agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Agreement; 2) Authorize all necessary signatures; and 3) Approve the budget.

Attachments: Aerial map, tract map and Real Estate Agreement.

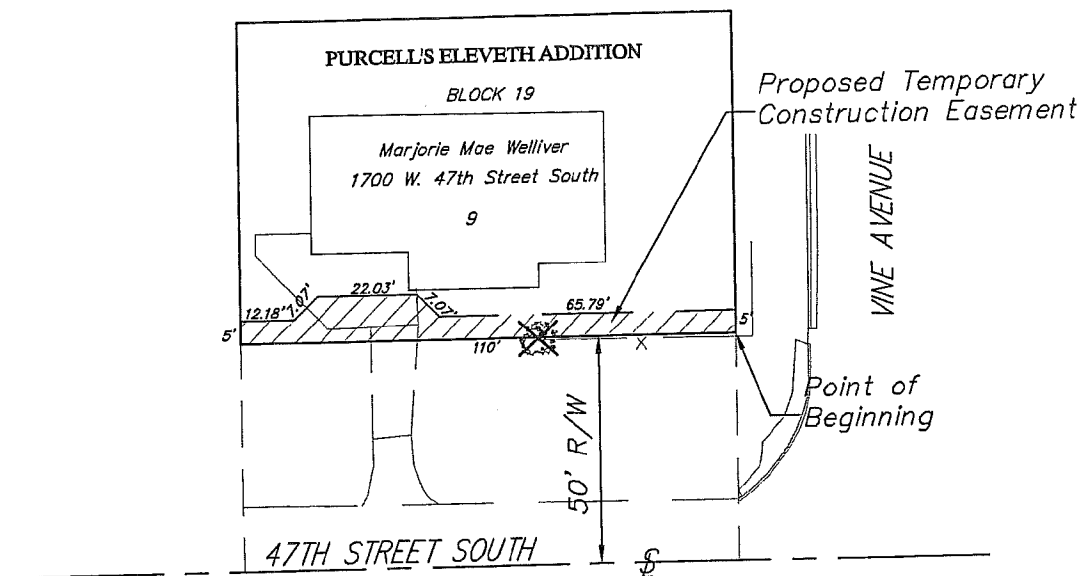
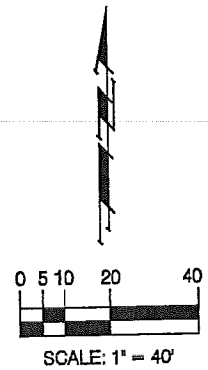
EXHIBIT

LEGAL DESCRIPTION:

A Temporary Construction Easement in Lot 9, Block 19, Purcell's Eleventh Addition to Wichita, Sedgwick County, Kansas, Described as Follows:

A portion of Lot 9, Block 19, Purcell's Eleventh Addition to Wichita, Sedgwick County, Kansas, beginning at the southeast corner of said Lot 19; thence north along the east line of said Lot 19 a distance of 5.00 feet; thence west parallel to the south line of said Lot 19 a distance of 65.79 feet; thence northwesterly a distance of 7.07 feet to a point 10.00 feet normally distant north of the south line of said Lot 19; thence west parallel to the south line of said Lot 19 a distance of 22.03 feet; thence southwesterly a distance of 7.07 feet to a point 5.00 feet normally distant north of the south line of said Lot 19; thence west parallel to the south line of said Lot 19 a distance of 12.18 feet to a point on the west line of said Lot 19; thence south along the west line of said Lot 19 a distance of 5.00 feet to the southwest corner of said Lot 19; thence east along the south line of said Lot 19 a distance of 110.00 feet to the point of beginning.

Containing 685.1 Sq. Ft., more or less.



DATE: 12/03/09
SUBMITTED: 2/11/10



Project Number 05-10-E397

F:eng/47th South/Exhibits/Welliver-Temp.dwg

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this ____ day of _____, 2010 by and between Marjorie Welliver, an individual, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer a temporary easement for the construction and improvements of 47th Street Road Improvement Project within, upon and under the following described tract, to wit:

A proposed temporary easement Wichita, Sedgwick County, Kansas, described as follows:

A portion of Lot 9, Block 19, Purcell's 11th Addition to Wichita, Sedgwick County, Kansas, beginning at the southeast corner of said Lot 19; thence north along the east line of said Lot 19 a distance of 5.00 feet; thence west parallel to the south line of said Lot 19 and distance of 65.79 feet; thence northwest a distance of 7.07 feet to a point 10.00 feet normally distant north of the south line of said Lot 19; thence west parallel to the south line of said Lot 19 a distance of 22.03 feet; thence southwesterly a distance of 7.07 feet to a point 5.00 feet normally distant north of the south line of said Lot 19; thence west parallel to the south line of said Lot 19 a distance of 12.18 feet to a point on the west line of said Lot 19; thence south along the west line of said Lot 19 a distance of 5.00 feet to the southwest corner of said Lot 19; thence east along the south line of said Lot 19 a distance of 110.00 feet to the point of beginning. Containing 685.1 square feet, more or less.

2. The Buyer hereby agrees to purchase and pay to the Seller as consideration for the conveyance to Buyer, the above-described tract the sum of Nine Hundred Dollars and no/100 (\$900) in the manner following, to-wit: cash at closing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division- for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence and that this transaction shall be consummated on or before July 23, 2010.

6. The Seller further agrees to convey the above-described easement with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer on or before closing date.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100% by buyer. Buyer will pay 100% closing costs.

9. Site Assessment

A. At any time prior to the closing of this agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the Property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the Property, the buyer shall have the right to void this agreement upon notice to the seller, in which event neither party shall be under any further obligation to the other, with the exception that seller shall return to buyer any deposit made hereunder. The buyer or its agents shall have the right, without the obligation, to enter upon the Property prior to closing to undertake an environmental site assessment or testing of the Property, at the buyer's sole expense.

B. Provided, however, buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. The buyer shall, if buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:

Marjorie Welliver
Marjorie Welliver

BUYER:

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law



1700 W 47TH ST S

D25529

- Selected Features
- Property Parcels
- Roads
 - State Highway
 - US Federal Highway
 - Interstate
 - KTA
 - Arterial
 - Collector
 - Minor
 - Ramp



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Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.





DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Karen Sublett, City Clerk
FROM: Gary E. Rebenstorf, Director of Law
SUBJECT: Report on Claims for June 2010
DATE: July 1, 2010

The following claims were approved by the Law Department during the month of June 2010.

Aldrete, Oscar	\$ 159.00
Balderas, Fabiola	\$ 1,071.00
Brewer, Doug	\$ 500.00
Burkhalter, Angela	\$ 471.05
Dupree, Crystal	\$ 300.00
Gallegos, Michael	\$ 2,962.83
Kilgore, Adam	\$ 6,787.50* **
Loggins, Phyllis	\$ 99.39
Sipult, Linsey	\$ 196.65
Thode, Scott	\$ 1,600.00**

*City Manager Approval

** Settled for lesser amount than claimed

***Settled for more than amount claimed

cc: Robert Layton, City Manager
Kelly Carpenter, Director of Finance

**CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
JUNE 2010**

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Actuarial Consulting Services Wichita Retirement Systems and Police and Fire Retirement Systems	6/30/2010	Milliman, Inc.	Finance, Police and Fire	7/1/2007 - 6/30/2008	2 - 1 year options
Closed Captioning Services for City 7	6/30/2011	Caption Colorado, Inc.	City Manager's Office	7/1/2009 - 6/30/2010	3 - 1 year options
Collection of Delinquent Court Fines and Collection of Delinquent Penalty Fees for Office of Central Inspection	6/30/2011	Gila Corporation dba Municipal Services Bureau	Municipal Court	7/3/2007 - 6/30/2008	1 - 1 year option
Delinquent Account Commission Rate Cash Collect cns	6/30/2011	Professional Finance Company, Inc.	Wichita Water Utilities	7/1/2009 - 6/30/2010	1 - 1 year option
Employee Health & Benefit Consulting Services	6/30/2011	AON Risk Services	Finance	7/8/2008 - 6/30/2009	2 - 1 year options
Maintenance Service on Power Files	6/30/2011	Records Retreiva Systems	Police	7/1/2002 - 6/30/2003	Annual basis
Paint Exterior	6/30/2011	PPG Architectural Finishes inc dba Porter Paints	Houseing & Community Services	7/1/2009 - 6/30/2010	1 - 1 year opt on
Police Leather Accessories - Group 6	6/30/2011	Mid-Continent Safety, LLC	Police	7/1/2009 - 6/30/2010	1 - 1 year option
Police Leather Accessories - Groups 3, 4 and 7	6/30/2011	Smart Security and Investigations, Inc. dba SSI Equipment and Supply	Police	7/1/2009 - 6/30/2010	1 - 1 year option
Veterinary Consulting Services	6/30/2011	IRL Kutter, DVM dba Kutter Pet Care Center	Environmental Services	7/1/2009 - 6/30/2010	1 - 1 year option

**PROFESSIONAL CONTRACTS UNDER \$25,000
JUNE 2010**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Ruggles & Bohm PA	PO030483	Engineering Consulting	6,175.00		
Ruggles & Bohm PA	PO030500	Engineering Consulting	1,900.00		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000
DIRECT PURCHASE ORDERS FOR JUNE 2010**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
MKEC Engineering Consultants Inc.	PO030482	Engineering Consulting	\$23,500.00		
Prograssive Solutions Inc.	DP030794	Software Maintenance/Support	\$40,629.50		
Galaxie Business Equipment Inc.	DP030841	Software maintenance/Support	\$56,543.00		
Dell Marketing L P	DP030857	Software Maintenance/Support	\$33,194.88		
Software House International (SHI)	DP030871	MSEA Software Maintenance/Support	\$356,685.00		

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council Members

SUBJECT: Approval of Contract to Lease Transit Bus Tires

INITIATED BY: Wichita Transit

AGENDA: Consent

Recommendations: Approve a contract to lease transit bus tires from Bridgestone Americas Tire Operations, LLC.

Background: Wichita Transit has leased bus tires for the last 15 years. The following are the main components of this lease contract:

- § The term of the lease shall be for three one-year contract periods, with the option of renewal for up to an additional two one-year periods, for a total contract term of up to five full years.
- § The lease requires that certain tire sizes be price quoted per vehicle model, per tire, per mile.
- § The lease request annual pricing adjustments, if any, for years two through five.

The current contract expired on June 30, 2010.

Analysis: The contract is primarily evaluated on the quality of the tires provided and the pricing of the tire use per mile. The tires leased require meeting the safety certification standards for design, manufacturing, assembly, and testing for transit use purposes as outlined by federal, state, and local (if any) regulations and requirements. Two companies submitted qualified proposals: Bridgestone Americas Tire Operations, LLC and Goodyear Tire and Rubber Company. Both companies have had a good working relationship with Wichita Transit's maintenance staff. A procurement selection committee met to review and evaluate both bids on June 17, 2010. The committee's recommendation to City Council is to accept the Bridgestone Americas bid.

Financial Considerations: Bridgestone submitted a pricing rate schedule that, in year one is estimated to cost approximately \$66,392 per year based on anticipated mileage numbers driven. This is \$2,525 lower per year than the Goodyear bid. Tire costs are considered a maintenance equipment item eligible for Federal Transit Administration grant funding (80% federal/20% local).

Goal Impact: To ensure an Efficient Infrastructure by maintaining a safe and dependable transportation system.

Legal Consideration: The Law Department has reviewed and approved the tire lease contract as to form.

Recommendations/Actions: It is recommended that the City Council approve the tire lease contract with Bridgestone Americas Tire Operations, LLC and authorize the necessary signatures.

Attachment: Bridgestone Americas Tire Operations, LLC, Tire Lease Agreement.

TIRE LEASE AGREEMENT

THIS Agreement, made in Akron, Ohio, this 14th day of July, 2010 by and between **BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC**, a Delaware Limited Liability Company, with its principal offices in Nashville, Tennessee, **and administrative office at 1200 Firestone Parkway – Mileage Sales Group, Akron, OH 44317** ("Bridgestone") and The City of Wichita, a municipal corporation in the state of Kansas, having an office in Wichita, KS ("Operator").

WITNESSETH:

1. TIRES--Bridgestone agrees to lease to Operator and Operator agrees to lease from Bridgestone and use such number of tires as may be sufficient to keep all of Operator's vehicles fully equipped and to provide an adequate reserve supply; provided, however, that Operator shall have the right at any time during the term of this Agreement upon thirty (30) days' prior written notice to Bridgestone, to equip for testing purposes up to ___ten percent (10%)___ of its vehicle fleet with tires obtained from other suppliers.

As used in this Agreement, "tires" shall mean a casing, tube and flap for a tube type tire and a casing only for a tubeless tire, and "Operator's vehicles" shall, unless otherwise indicated, mean all vehicles referenced in "Bid Specifications" that are owned or operated by Operator at any time during the term of this Agreement.

Rims shall be the property of Operator and extra rims shall be provided by Operator.

2. RATE-- Operator agrees to furnish Bridgestone by the tenth day of each month a report consisting of the following: vehicle number, the beginning and ending Hubodometer/Odometer reading and total miles operated the preceding month on all vehicles fitted with Bridgestone tires ("Monthly Operating Miles"). Bridgestone or its agents shall have the right at any reasonable time during business hours to audit Operator's records for the purpose of verifying actual vehicle mileage. The amount of the regular monthly payment shall be computed by using the applicable billing rate per tire mile in effect during such preceding month, as set forth below. All invoices shall be due and payable on the fifteenth (15th) of the following month.

Operator agrees that no amounts shall be deducted from or charged back against payments otherwise due Bridgestone hereunder by virtue of claims of any nature which Operator may have or allege against Bridgestone; Bridgestone and Operator agree that such claims shall be resolved by good faith negotiations between the parties wherever possible.

The billing rate per tire mile for other vehicles which may be acquired by the Operator shall be determined in line with the billing rate then in effect, taking into consideration the weight of vehicles, carrying capacities, sizes and types of tires, and such additional billing rate shall be included in this Agreement by amendment.

The billing rate shown below assumes Bridgestone's ability to procure and use such materials and manufacturing methods as were procured and used prior to the date of this Agreement, and are based upon proven experience of mileage delivered thereunder. If laws, changes in vehicles, governmental regulations or other causes beyond Bridgestone's reasonable control require any change in such materials, performance or methods which reduce the mileage available from the tires to be furnished hereunder or which increase Bridgestone's costs, Operator agrees that the billing rate shall be adjusted to compensate therefore.

ANNUAL TIRE MILE RATE

TIRE SIZE	YEAR ONE	YEAR TWO	YEAR THREE	YEAR FOUR	YEAR FIVE
315/80R22.5	See Exhibit 1 Price Proposal				
255/70R22.5					
265/70R19.5					

3. TAXES, CHARGES--Operator agrees to furnish state and federal tax exemption certificate numbers to Bridgestone for any sales, excise, use, processing, disposal or similar tax or fees, including any state imposed new tire fee or tax, imposed upon the goods sold or services rendered hereunder.
4. SERVICE--Except to the extent specifically covered in the Bid Specifications, Operator covenants and agrees to provide all necessary equipment and supplies and to assume complete responsibility for servicing all tires delivered hereunder, including but not limited to driving vehicles to and from tire service location, making all wheel changes, keeping tires inflated to an air pressure recommended by Bridgestone, having air lines conveniently placed to properly take care of the airing of tires, keeping wheels in alignment and brakes properly adjusted, making all **repairs** on tires which may be necessary to keep them in proper running condition, **mounting and demounting** tires from rims, ~~regroove tires (if required)~~, and providing safe and suitable space inside its garage for the secure storage of tires and wheels, and repair and care of the tires and wheels without charge to Bridgestone. Operator further agrees to permit any authorized representative of Bridgestone to make such inspections and to inventory the tires and wheels on vehicles together with extra tires and wheels furnished Operator as spares as Bridgestone deems necessary or advisable. Operator shall at all times advise Bridgestone of the location of vehicles and extra tires and wheels to permit such inspections and inventories.

SERVICE AGREEMENT (INCLUDED IF 1ST COLUMN = "X")

n/a	On-site service
n/a	Off-site service
n/a	Tire service Equipment

In the event Bridgestone shall agree to perform services for Operator, the nature, location, extent and charge for such services shall be as set forth in a future Addendum to be attached to this Agreement and made a part hereof.

5. PURCHASE OF VEHICLES--Vehicles purchased by Operator during the term of this Agreement will be obtained from the manufacturer, or other seller without tires (unless said vehicles are included within the ____ten percent (10%)____ or less of the fleet upon which Operator has elected to test tires of other suppliers), and Operator will notify Bridgestone thirty (30) days in advance of date required so that Bridgestone may specify and furnish to the manufacturer's continental North American facility or port of demarcation the size and type of tires to be placed on the vehicles. Any tires lost, stolen, or damaged while in the possession of the vehicle manufacturer, or other seller, or while the vehicle is being delivered to the Operator, shall be paid for by Operator on the basis set forth in Paragraph 11 hereof. If any such vehicles equipped with tires furnished by Bridgestone shall be driven overland instead of being shipped, Operator shall pay Bridgestone for use of such tires at the billing rate per tire mile then in effect within thirty (30) days after receipt of invoice.
6. LEASED VEHICLES--Operator represents and warrants that it outright owns all vehicles referenced in Paragraph 1. If, during the term of this Agreement, including any and all addenda, Operator acquires the right to operate any vehicles not owned by it by entering into a rental or other form of agreement with the owner of such vehicles ("Leased Vehicles"), Operator agrees to the following:
 - a) Notify Bridgestone of such an agreement;
 - b) All Leased Vehicles will be furnished to Operator less tires in order that said vehicles be equipped with Bridgestone tires. These tires shall be subject to the terms of this Agreement, unless the Leased Vehicles are included under the ten percent (10%) testing provision; and
 - c) Obtain from the owner of such vehicles, acknowledgment to Bridgestone's ownership and right to possession of all tires supplied under this Agreement, and waives any and all rights to said tires.

Should Operator terminate or otherwise lose possession of any of the Leased Vehicles equipped with Bridgestone tires, Operator shall pay for each tire (including spares) as set forth in Paragraph 11 hereof.

7. SALE OR DISPOSITION OF VEHICLE--Operator shall notify Bridgestone prior to any sale or disposition of any of Operator's vehicles equipped with Bridgestone's tires and, unless Bridgestone requests otherwise, Operator shall purchase the unused mileage in each tire and for any tires and extra tubes which remain in stock after such vehicles have been sold or disposed of which cannot be used on other vehicles in Operator's fleet. Bridgestone shall have the right to request the removal of all serviceable Bridgestone tires on parked or inactive vehicles if they remain parked or inactive for more than ninety days and return such tires to Operator's reserve supply. Said tires shall then be replaced with scrap tires (see Attachment I). Payment for the unused mileage and tubes acquired by Operator under this paragraph shall be on the basis and within the time set forth in Paragraph 11 hereof.

8. LOSS OF TIRES-- The Operator agrees to maintain buses' suspension and steering in accordance with bus manufacturers' alignment specifications and keep brakes properly adjusted. Any tires which have been damaged beyond repair by an accident, malicious abuse, fire, or which have been lost or stolen, shall be paid for by Operator as of the date of accident, loss or theft on the basis, and within the time, set forth in Paragraph 11 hereof. "Abuse" as used herein means a total or partial destruction of a tire by means other than normal wear, including but not limited to destruction caused by running the tire underinflated, overloaded, flat, on bent rims, damage from brake heat, or that are out of alignment, or with chains of the wrong design or that are improperly applied.
9. CONTINGENCIES--In the event of fire, strikes, accidents, consequences of foreign or domestic wars, terrorism, or any cause beyond either party's reasonable control which will delay or interfere with its performance of its obligations hereunder, such performance may, at the option of either party, be suspended during the period required to remove such cause. In the event Bridgestone discontinues the manufacture and marketing of any size or type tire supplied pursuant to this Agreement, Bridgestone shall so notify Operator and, upon written notice by either party to the other, this Agreement and all related agreements between the parties shall be deemed terminated upon the same terms and conditions set forth in Paragraph 11 below, effective ninety (90) days from receipt of such written notice. This Agreement is subject to all present or future governmental regulations affecting production, delivery, sale, use or possession of the products leased hereunder. Operator shall promptly notify Bridgestone of any accident or claims resulting from an alleged tire failure. Operator agrees to defend, save and hold Bridgestone harmless from all claims or actions for damages to property or injury to persons, including death, arising out of the use or possession of products furnished hereunder or the performance of any service related thereto. However, Bridgestone agrees to defend, save and hold Owner harmless from all claims or actions for damages to property or injury to persons, including death, arising out of defects in material or workmanship of any tire manufactured and furnished by Bridgestone under this Agreement and/or the negligent acts or omissions of Bridgestone, its agents or employees.
10. DEFAULT--In the event Operator should fail to make any payment required hereunder when due, fail to use or service tires furnished hereunder in accordance with Bridgestone's recommendations, fail to report a record of the daily revenue and non-revenue vehicle miles as required in Paragraph 2 hereof, or otherwise fail to comply with any of the terms and conditions of this Agreement, or in the event any voluntary or involuntary proceedings shall be filed against or by Operator under any bankruptcy law or other law for the relief of debtors, or Operator's credit shall in any manner become impaired, (a.) Bridgestone shall have the right, at its option, without prejudice to any other rights and remedies, to stop shipping tires, (b.) such event shall constitute a default by Operator hereunder. Upon the occurrence of any such default, Bridgestone shall upon 30 days' prior written notice to Operator terminate this Agreement and, upon any exercise of such right to terminate, Operator shall at the sole election of Bridgestone forthwith return Bridgestone's property furnished hereunder, or make payment therefore as of the date of termination on the basis and within the time set forth in Paragraph 11 hereof. Upon the failure or refusal of the Operator to return said property, Bridgestone may enter upon the premises of Operator and repossess said property with or without process of law. Termination of this Agreement shall not relieve Operator from its obligations to make all payments required hereunder

or from liability for damages for breach of this Agreement in accordance with the terms thereof. Failure of Bridgestone to terminate this Agreement as herein provided on any breach by Operator shall not operate as a waiver by Bridgestone of its right to terminate this Agreement as herein provided upon any subsequent breach by Operator.

11. **TERMINATION**--Upon the termination by full performance and expiration of this Agreement, unless the parties enter into a new Tire Lease Agreement to become effective immediately, Operator will, within 30 days after termination pay for the unused mileage in each remaining tire on vehicles, in Operator's garage, in process of repair or retreading, in transit or in stock, that have been assigned by Bridgestone to Operator's fleet in accordance with the provisions hereof.

The remaining mileage for original and retread tires shall be determined by multiplying the number of 32nds of an inch of available rubber remaining on each tire by the applicable cost per 32nd then in effect and shown below.

CONTRACT FIXED COST PER 32ND				
TIRE SIZE	ORIGINAL COST/32 ND	AVAILABLE 32NDS (tread - 2/32 nd)	RETREAD COST/32 ND	AVAILABLE 32NDS (tread - 2/32 nd)
315/80R22.5 CTR	\$14.43	34-2	\$ 9.91	22-2
255/70R22.5	\$19.41	18-2	\$9.32	22-2
265/70R19.5	\$20.21	16-2	n/a	n/a

Example: Original tire is 50% worn or 13/32nds remaining
13/32nds remaining x \$10.00/32nds = \$130.00

When a tire is not available for inspection to apply the above calculation(s) whether lost, stolen or otherwise missing, or destroyed by fire, or involved in an accident, reimbursement shall not be in excess of fifty percent (50%) of the current value of a similar tire, unless Bridgestone can provide an auditable accounting of the tire's accurate mileage just prior to the loss.

The foregoing notwithstanding, Operator may upon 30 days written notice via CERTIFIED MAIL prior to the expiration date of this Agreement, and all addenda, elect to continue using ("run out") all the tires in Operator's possession at the rate or rates in effect during the period prior to termination until permanently removed from service, but in no event shall such period exceed thirty-six months after the normal termination date.

During said thirty-six month period, Operator shall to the extent practicable, continuously use such tires on its highest mileage runs until they are rendered permanently unfit for service. During said run out period all terms and conditions of this Agreement shall continue in effect; provided, however, that Bridgestone shall not be obligated to furnish any equipment, supplies, or service to Operator or to furnish replacement tires for those tires removed from service.

At the expiration of said run out period, Operator shall pay for remaining original tread tires and for tubes at the price and in the manner set forth above. Any payment for tires and tubes required to be purchased by Operator under this Paragraph 11 or any other provision of this Agreement shall be made within thirty days after date of invoice covering purchase thereof. Operator will acquire each such used tire as is, and Bridgestone makes no warranties as to the condition or fitness for continued use of such tires.

12. TITLE--The title to, and ownership of, all tires, and equipment, if any, furnished under this Agreement shall remain with Bridgestone until Operator, if required to do so hereunder, has made complete payment therefore. Operator agrees to assume the responsibility for the safekeeping of all such tires and any equipment, and to reimburse Bridgestone for any loss resulting from Operator's failure to safely keep such tires and any equipment.
13. SECURITY INTEREST--For the purpose of securing payment of all sums that may be owed by Operator to Bridgestone, including but not limited to payment for mileage run and for any tires required to be purchased by Operator hereunder, Operator hereby grants to Bridgestone a security interest in and to any tires or equipment furnished by Bridgestone in which Operator, by virtue of present or future laws or the operation of this Agreement, has or is deemed to have an interest, wherever the same may be, and in any proceeds from the sale or other disposition of said tires or equipment. Operator further agrees to join in the execution, execute, or cause to be executed at any time such Financing Statements, Continuation Statements, and other documents as Bridgestone shall deem necessary or advisable to protect its rights in and to any goods leased hereunder and/or perfect or continue perfected the security interest given in this Agreement.
14. ASSIGNMENT--Neither party shall sell, transfer, sublease or assign any of its rights or interest under this Agreement, in whole or in part, to any other person, corporation, partnership or authority, without the prior written consent of the other party, which consent shall not be unreasonably withheld. In the event of any such sale, transfer, sublease or assignment with Bridgestone's consent, Operator shall remain fully bound by the terms hereof, including but not limited to the prompt payment for all mileages run, unless and until Operator is relieved of such obligations in writing by Bridgestone.
15. LIABILITY LIMITATION--In no event shall Operator be entitled to recover from Bridgestone any indirect, speculative or incidental damages arising hereunder, except that nothing herein shall limit or otherwise restrict the right of Operator to seek recovery (a) either directly or by way of contribution or indemnity, for damages actually or allegedly sustained by third parties which arise, or are claimed to arise, from the negligence, willful acts and/or strict liability of Bridgestone or (b) for direct damage to Operator's property.

16. ENTIRE AGREEMENT --The Operator's Request for Proposal FP030034; this Agreement and its Attachment I, the Wichita Transit City of Wichita Specifications for Lease of Transit Tires dated April 2010; the Exhibit 1 Price Proposal dated May 5, 2010; and the Addendum # 1 to the City of Wichita's Bus Tire Lease Proposal dated May 26, 2010 comprise the entire understanding of the parties hereto with respect to the subject matter hereof and there are no other agreements, understandings, representations or warranties, whether express, implied, statutory or otherwise, other than as set forth herein. All these documents should be construed harmoniously. In the event of conflict between these documents, the Exhibit 1 Price Proposal and Addendum #1 take precedence, to the extent they are affected, as they present subsequent clarification between the parties.

This Agreement cannot be amended except in writing signed by officers of both parties.

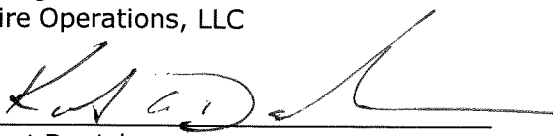
This Agreement shall be governed, construed and interpreted in all respects in accordance with the laws of the State of Kansas.

17. TERM OF AGREEMENT--The term of this Agreement shall be from July 14, 2010 through July 13, 2013; inclusive, and thereafter year-to-year on a mutually agreeable basis subject to cancellation by either party by serving thirty (30) days prior written notice by CERTIFIED MAIL to the other party, in which event the rights and obligations of the parties hereto shall be set forth in Paragraph 11.

IN WITNESS WHEREOF, the said parties, by the hand of their respective officers authorized to do so, have signed this Agreement in duplicate the day and year first above written.

Bridgestone Americas
Tire Operations, LLC

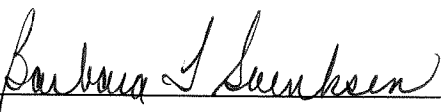
Operator-
City of Wichita


Kurt Danielson
Vice President, Sales & Marketing

Carl Brewer, Mayor

WITNESS:

Attest:



Barbara I. Suenksen

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney

DATE:

7/1/10

DATE:

ATTACHMENT I

TIRE LEASE – SCRAP TIRE AGREEMENT

1. It is understood that, in this agreement, a "Scrap Tire" means any non-retreadable tire furnished under the contract which has been determined by Bridgestone and agreed to by a Maintenance Foreman to be permanently unfit for further service under the contract.
2. Bridgestone will furnish scrap tires, if available, for the sole exclusive purpose of transporting and storing vehicles from garages to a storage facility.
3. In consideration of the above, the Operator shall:
 - A. Use the scrap tires furnished hereunder for the sole and exclusive purpose of transporting and storing vehicles from garages to a storage facility.
 - B. Acquire each scrap tire as is; Bridgestone makes no warranties as to the condition or fitness of such tires for continued use.
 - C. Assume all liability for use and possession of scrap tires furnished under this contract.
 - D. Not file or assert against Bridgestone any claim, action, or cause of action for loss, liability, or damage arising out of the use of or possession of scrap tires furnished under this contract.
 - E. Indemnify and hold Bridgestone harmless against all claims of any party for loss, liability, or damage resulting from Bridgestone furnishing of scrap tires.
4. It is further agreed that the scrap tires provided for storage purposes will be so provided at no cost.
5. Tires to be scrapped are subject to inspection and approval by a Maintenance Foreman before disposition.

CITY OF WICHITA/WICHITA TRANSIT PRICE PROPOSAL

I/we hereby propose to supply tires to City of Wichita/Wichita Transit in full compliance with the Request for Proposal.

Name of Firm:	<u>Bridgestone Americas Tire Operations, LLC</u>
Name of Authorized Individual:	<u>Kurt Danielson</u>
Title:	<u>Vice President - Sales & Marketing</u>
Address:	<u>1200 Firestone Parkway - Mileage</u>
City, State, Zip	<u>Akron, OH 44317-0001</u>
Phone/Fax:	330-379-4578 - fax 330-379-6637

original tires only

Item	Est. Quantities	Description (miles x 6 wheels)	Unit Price per Tire per Mile	Net Extension
1	25 ea	2002 Gillig Phantom [1.036 million annual miles est.]	\$.005483	\$34,082.33
2	9 ea	2002 Gillig Low Floor [378,000 annual miles est.]	\$.005483	\$12,435.44
3	5 ea	2001 Optima Opus [172,000 annual miles est.]	\$.005533	\$ 5,710.06
4	3 ea.	2005 Optima Opus [105,000 annual miles est.]	\$.005533	\$ 3,485.79
5	2 ea.	2004 Optima AH-28 Streetcar [18,000 annual miles est.]	\$.006113	\$ 660.20
6	2 ea.	2005 Gillig Phantom [83,000 annual miles est.]	\$.005483	\$ 2,730.53
7	2 ea.	2001 Chance AH-28 Streetcar [11,000 annual miles est.]	\$.006113	\$ 403.46
8	4 ea.	2006 Gillig Phantom [179,000 annual miles est.]	\$.005483	\$ 5,888.74
9	1 ea.	2006 Optima Opus [30,000 annual miles est.]	\$.005533	\$ 995.94

As per specifications

F.O.B. Wichita Transit
777 E. Waterman
Wichita, KS 67202

Annual anniversary rate adjustmen

315/80R22.5 - 4.5%

255/70R22.5 - 4.0%

265/70R19.5 - 4.0%

TOTAL NET BID \$ 66,392.49 Yr1

69,327.88 Yr

72,390.18 Yr

Proposer Execute Here:

Signature:

Date:

Date: 5/14, 2010

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Resolution of support for and authorization to submit a 2010 TIGER II grant pre-application to the USDOT Federal Highway Administration. (Districts I, IV, VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: City Council (Consent)

Recommendation: Approve the resolution and authorize submission of a 2010 TIGER II Discretionary Grant and Planning Grant pre-application to the U.S. Department of Transportation (USDOT), Federal Highway Administration.

Background: In mid-June, a notice of new funding availability was issued by the U.S. Department of Transportation (USDOT), Federal Highway Administration for the Federal Transportation Investment Generating Economic Recovery Program (TIGER), National Infrastructure Investments. Monies are available through TIGER II Discretionary Grants for the purpose of funding capital investments in port infrastructure, highway or bridge projects, public transportation projects, or passenger/freight rail projects. Funded projects must: have a significant impact on the Nation, a metropolitan area or region; stimulate economic activity, competitiveness and employment; and, foster safety, livability and environmental sustainability. Monies are also available through TIGER II Planning Grants for the purpose of planning and designing eligible projects including transportation corridors or regional transportation systems.

The TIGER II Discretionary Grant is a competitive grant program. For 2010, \$600 million is available nationally to fund transportation projects that cost at least \$10 million. The minimum funding amount for a TIGER II Discretionary Grant application is \$10 million, with the optimal range being \$20-30 million. The maximum funding amount for a TIGER II Planning Grant application is \$3 million. A TIGER II Planning Grant application can be made separately or as part of a TIGER II Discretionary Grant application.

The U.S. Department of Transportation (USDOT), Federal Highway Administration has indicated that it will receive pre-applications for 2010 TIGER II Discretionary Grants and Planning Grants no later than July 26, 2010, with final applications due on August 23, 2010. A minimum 20% local match is required, with greater local match amounts increasing the competitiveness of the grant application.

Analysis: Staff is proposing that the City submit a 2010 TIGER II Discretionary Grant and Planning Grant pre-application to fund the transportation and transit project improvements identified in the Draft Downtown Wichita Revitalization Master Plan, including street improvements to Douglas from Washington to Hydraulic as identified in the Douglas Design District Streetscape Improvement Plan. A breakout of the project elements and associated cost estimates is included. The project area is depicted on Exhibit "A".

The total project costs are estimated at \$31.4 million. A local funding match in the amount of \$9.4 million could leverage \$22 million in federal funds if the grant application is successful.

A resolution of support and commitment must be approved by the Wichita City Council and submitted with the 2010 TIGER II Discretionary Grant and Planning Grant pre-application. The City of Wichita's pre-application will compete for funding with other projects nationwide.

Project Elements and Cost Estimates

Project	Cost
Main	\$1,944,250
Market	\$3,727,000
Topeka	\$1,210,000
Emporia	\$888,250
St. Francis	\$3,509,000
Commerce	\$2,030,500
2 nd Street	\$2,554,750
1 st Street	\$1,908,500
Douglas	\$5,186,000
William	\$478,500
English	\$1,991,000
Waterman	\$22,000
Lewis	\$2,501,000
McLean	\$528,000
Sycamore	\$1,009,250
Q-Line Routes	\$1,870,500
Total	\$31,358,500

Financial Considerations: The current 2009-2018 Wichita Capital Improvement Program (CIP) has \$5.2 million budgeted for improvements to the following streets located within the project area: Market, St. Francis, Commerce and Lewis. This \$5.2 million would be \$1 million short of the minimum 20% local match requirement for the grant application. To be more competitive, a 30% local match would require \$9.4 million in local funding (an additional \$4.2 million of projects would have to be re-programmed in the CIP). Staff discussions with each Council Member indicate that the City Council would support a shifting of current CIP project priorities to meet the local match requirements, should the City be fortunate enough to be awarded the full grant amount requested.

Goal Impact: Approving the resolution of support and authorization for pre-application submittal for a 2010 TIGER II Discretionary Grant and Planning Grant would impact two goal areas. It supports the goal to Promote Economic Vitality, and the goal to Support a Dynamic Core Area and Vibrant Neighborhoods.

Legal Considerations: The Wichita City Council must approve the filing of the pre-application through a resolution that states that the City accepts responsibility for the coordination of this project and is committed to funding the local match contribution and the maintenance for the life of the project. The resolution has been approved and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the resolution and authorize submission of a 2010 TIGER II Discretionary Grant and Planning Grant pre-application to the U.S. Department of Transportation (USDOT), Federal Highway Administration.

Attachments: Resolution, Exhibit “A”

RESOLUTION NO. 10-196

A RESOLUTION OF THE CITY OF WICHITA TO APPROVE THE FILING OF A PRE-APPLICATION TO THE U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION FOR USE OF TIGER II DISCRETIONARY GRANT AND PLANNING GRANT FUNDS SET FORTH BY THE TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY PROGRAM, NATIONAL INFRASTRUCTURE INVESTMENTS, AND AUTHORIZING THE MAYOR TO SIGN THE APPLICATION.

WHEREAS, the City of Wichita, Kansas, has the legal authority to apply for, receive, and administer federal, state, and other monies through Home Rule Power under the Constitution of the State of Kansas and authorized by K.S.A. 12-1662, regarding the expenditure of federal aid to public agencies; and

WHEREAS, the City of Wichita, Kansas, desires to submit an application to the U.S. Department of Transportation (USDOT), Federal Highway Administration for TIGER II Discretionary Grant and Planning Grant funds set forth by the Transportation Investment Generating Economic Recovery Program, National Infrastructure Investments; and

WHEREAS, Federal monies are available under TIGER II Discretionary Grants and Planning Grants set forth by the Transportation Investment Generating Economic Recovery Program, National Infrastructure Investments, administered by the U.S. Department of Transportation (USDOT), Federal Highway Administration, for the purpose of funding the design and/or construction of port infrastructure investments, highway or bridge projects, public transportation projects, or passenger/freight rail projects that will: have a significant impact on the Nation, a metropolitan area or region; stimulate economic activity, competitiveness and employment; foster safety, livability and environmental sustainability; and

WHEREAS, After appropriate input and due consideration, the Governing Body of the City of Wichita, Kansas has recommended that a pre-application be submitted to the U.S. Department of Transportation (USDOT), Federal Highway Administration for funding consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the City of Wichita, Kansas approves the submission of a TIGER II Discretionary Grants and Planning Grants pre-application for purposes of seeking funding to assist with the following integrated project: design and construction of transportation/transit improvements as recommended in the draft Wichita Downtown Revitalization Master, including the complete street/transportation improvement recommendations contained in the Douglas Design District Streetscape Improvement Plan, December 2009.

SECTION 2. That the City of Wichita, Kansas, hereby accepts responsibility for the coordination of this project, commits to a minimum of 20 % of the total project costs as a local match contribution, and assures the U.S. Department of Transportation (USDOT), Federal Highway Administration that sufficient match funding for the design, engineering and construction of this project as appropriate, is available.

SECTION 3. That the City of Wichita, Kansas, hereby assures the U.S. Department of Transportation (USDOT), Federal Highway Administration that sufficient funding for the appropriate operation and maintenance of this project, if selected, will be available for the life of this project, subject to annual appropriation as required by law.

SECTION 4. That the City of Wichita, Kansas, hereby assures the U.S. Department of Transportation (USDOT), Federal Highway Administration that the City of Wichita, Kansas, has title or permanent easements for this project, or has the ability to acquire such title or permanent easements and intends to acquire such title or permanent easements before the time of project letting.

SECTION 5. That the Mayor of the City of Wichita, Kansas, is authorized to sign the application to the U.S. Department of Transportation (USDOT), Federal Highway Administration for TIGER II Discretionary and Planning Grant funds set forth by the Transportation Investment Generating Economic Recovery Program, , National Infrastructure Investments, on behalf of the citizens of Wichita, Kansas. A City official (to be designated) is authorized to submit additional information as may be required and act as the official representative of the City of Wichita in this and subsequent related activities.

SECTION 6. That the City of Wichita, Kansas, hereby assures the U.S. Department of Transportation (USDOT), Federal Highway Administration that the City of Wichita, Kansas is willing and able to administer the design, letting and construction of this project, if selected.

ADOPTED AND PASSED by the Governing Body of the City of Wichita, Kansas, this 20th day of July 2010.

Carl Brewer, Mayor

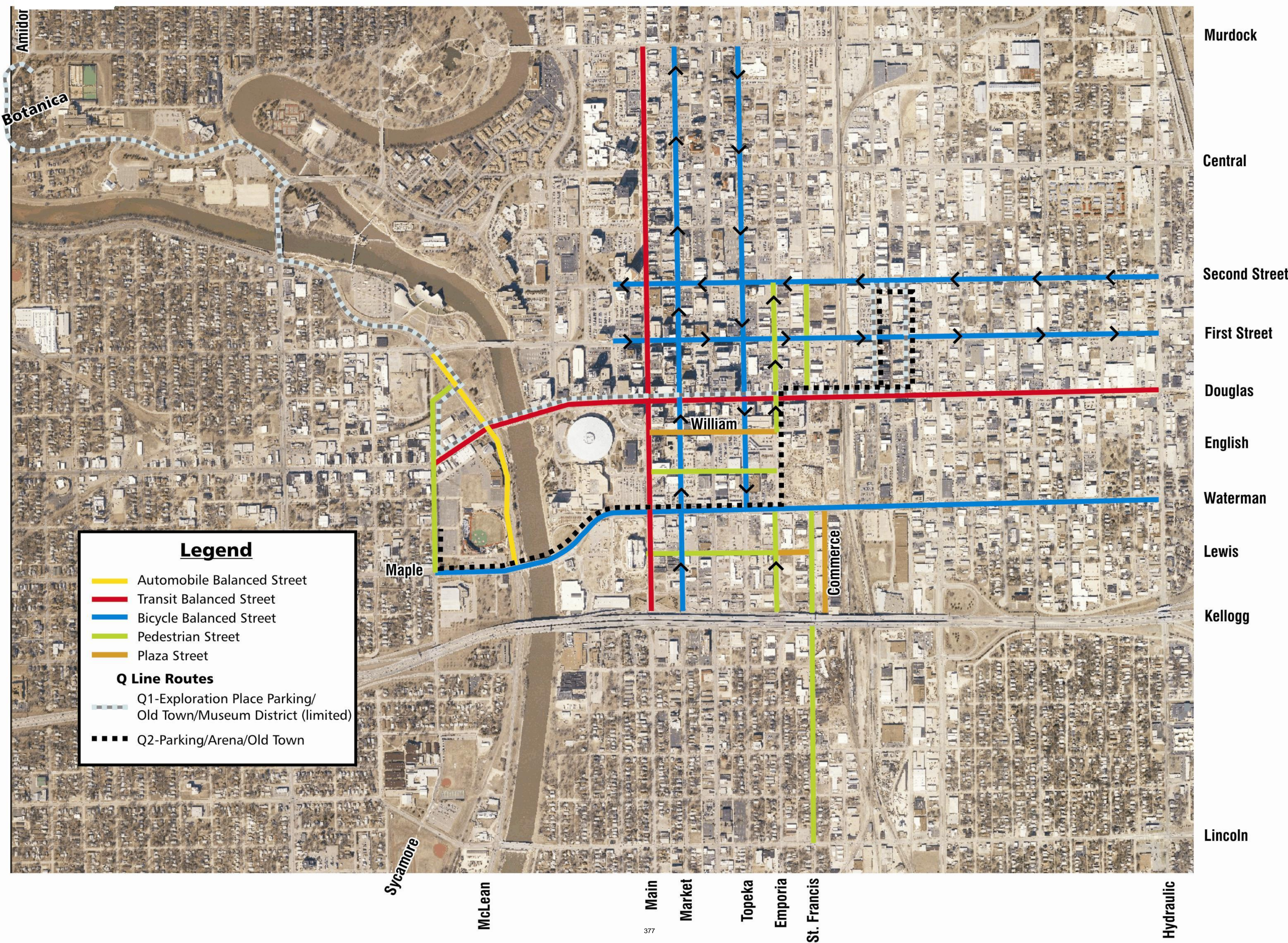
ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM

Gary Rebenstorf, Director of Law

TIGER II Discretionary Grants Project Map



City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Resolution Ordering a Public Hearing: Mead Street Improvement, between 3rd and Central (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

.....

Recommendation: Adopt the resolution.

Background: On July 10, 2007, the City Council ordered in the paving of Mead Street, between 3rd and Central. The authorizing resolution contained a typographical error that resulted in a group of lots being inadvertently left out of the resolution. The notification letter and information packet provided to the affected property owners was correct. A new resolution has been prepared to schedule an August 10, 2010, City Council public hearing to adopt a revised authorizing resolution to correct the error.

Analysis: The completed project is a two lane concrete roadway with on-street parking, landscaping, benches, brick crosswalks, sidewalks and ornamental streetlights. It has improved access to adjoining businesses and served as a northern gateway to the Old Town District.

Financial Considerations: The special assessments total \$237,000 which is less than expected at the time the project was initiated. The city-at-large contributed \$214,400 to the project for a total cost of \$451,400.

Goal Impact: The project addressed the Efficient Infrastructure goal by providing paved access in an existing commercial area and improved access to Old Town.

Legal Considerations: State Statutes provide the authority for the City Council to order in paving projects. The new resolution and public hearing are required to correct the original resolution.

Recommendation/Action: It is recommended that the City Council adopt the resolution and authorize the necessary signatures.

Attachments: Map and resolution.

Published in the Wichita Eagle on July 23 and July 30, 2010

RESOLUTION NO. 10-197

RESOLUTION DIRECTING AND ORDERING A PUBLIC HEARING ON THE
ADVISABILITY OF AN IMPROVEMENT

A resolution directing and providing for a public hearing on the advisability of improvements consisting of paving MEAD FROM THE SOUTH LINE OF CENTRAL TO THE NORTH LINE OF 3RD ST. NORTH 472-84561 in the City of Wichita, Kansas, all as provided by KSA 12-6a04. Said hearing shall be held on August 10, 2010 in the City Council Chambers of City Hall at 9:00 a.m.

Be it further resolved: That the City Clerk of the City of Wichita, Kansas shall give notice of the aforesaid public hearing by publication in the official city newspaper in the manner provided by KSA 12-6a04 in the following form:

NOTICE OF HEARING

NOTICE OF HEARING ON IMPROVEMENTS CONSISTING OF PAVING
MEAD FROM THE SOUTH LINE OF CENTRAL TO THE NORTH LINE OF 3RD ST. NORTH 472-84561, IN THE CITY OF WICHITA, KANSAS.

Notice is hereby given that the Governing Body of the City of Wichita, Kansas will hold a hearing as provided by KSA 12-6a04, at its regular meeting on August 10, 2010, Said meeting to be held in the City Council Chambers of the City Building, 455 North Main Street at 9:00 a.m. Said hearing to begin at 9:00 a.m., for the purpose of considering the advisability of the following improvements:

SECTION 1. That it is necessary and in the public interest to pave paving MEAD FROM THE SOUTH LINE OF CENTRAL TO THE NORTH LINE OF 3RD ST. NORTH 472-84561.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the estimated and probable cost of the foregoing improvement being Four Hundred Fifty-One Thousand Four Hundred Dollars (\$451,400), exclusive of the cost of interest on borrowed money, with \$237,000 payable by the improvement district and \$214,400 payable by the City-at-large.

SECTION 3. That the cost of said improvement attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

HINTON'S SUBDIVISION OF EAST WICHITA ADDITION

The E 150' of Reserve A
Lots 7 through 24, Inclusive

UNPLATTED TRACTS
In Section 21, Twp 27S, R1E

The W ½ of the following tract: Beginning 40' S & 536' W of the NE corner of the NW ¼;
thence S 145' W 128.75' N 145' E 125' to the beginning.

The W ½ of the following tract: Beginning 185' S & 532.25' W of the NE corner of the NW ¼;
thence S 75' W 130.69' N 75' to the beginning.

The W ½ of the following tract: Beginning 661' W & 260' S of the NE corner of the NW ¼; thence S 85° E 132.88' N 85° W to the beginning.

The W ½ of the following tract: Beginning 661' W & 345' S of the NE corner of the NW ¼; thence S 40° E 133.92' N 40° W to the beginning.

The W ½ of the following tract: Beginning 661' W & 385' S of the NE corner of the NW ¼; thence S 50° E 135.21' N 50° W to the beginning.

The W ½ of the following tract: Beginning 661' W & 505' S of the NE corner of the NW ¼; thence N 70° E 135.21' S 70° W to the beginning.

The W ½ of the following tract: Beginning 661' W & 630' S of the NE corner of the NW ¼; thence N 125° E 137.02' S 125° W to the beginning.

SECTION 4. That the method of assessment of all costs for the improvements for which the improvement district shall be liable shall be on a square foot basis.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

The hearing may be adjourned from time to time until the Governing Body of the City of Wichita, Kansas shall have made findings by resolution as to the advisability of the improvements, the nature of the improvements, the estimated cost, the boundaries of the improvement district and the method of assessment, all as finally determined by the said Governing Body: Provided the area of the proposed improvement district to be assessed may be less than but shall not exceed the area proposed to be assessed as stated in this Notice of Hearing without giving notice and holding a new hearing on the improvements. All persons desiring to be heard with reference to the proposed improvements will be heard at this hearing.

That this resolution shall be published twice in the official City newspaper. The two publications shall be a week apart and at least three days shall elapse between the last publication and the hearing.

PASSED AND APPROVED by the governing body of the City of Wichita, Kansas, this 20th day of July, 2010.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Emergency Sanitary Sewer Repairs at 25th Street North and Amidon (District VI)

INITIATED BY: Department of Water Utilities

AGENDA: Consent

Recommendation: Approve the emergency sewer line repairs.

Background: In the southbound lanes of Amidon, south of 25th Street North, a street collapse and sinkhole developed the morning of June 22, 2010. Street Maintenance contacted Sewer Maintenance and the problem was investigated. Traffic control was established for public safety, with Amidon reduced to one lane in each direction. It was discovered that an eight inch clay sanitary sewer installed in 1956 had collapsed. Due to the pipe depth of 14 feet, the sandy soil conditions, and the amount of pipe that had failed, excavation would require specialized equipment beyond the Water Utilities Department's capabilities. Sewer Maintenance crews set up a sewage bypass pumping system to prevent sewer backups in the neighborhood until a repair could be made by an outside contractor.

Analysis: Due to the amount of sand entering the City's main line, the damage to the street, and the expense of continued bypass pumping, the repair needed to be performed more quickly than the formal bid process will allow. The City Manager approved proceeding with informal bids on an emergency basis. Staff contacted seven sewer main contractors for informal bids and five of the contractors met on site. Three contractors submitted bids, with the low bid submitted by Wildcat Construction, in the amount of \$34,390.

Financial Considerations: Funds are available from the Capital Improvement Program Project S-4, Reconstruction of Old Sanitary Sewers. The project will be funded from future sewer revenue bonds and/or Sewer Utility cash reserves.

Legal Considerations: City Ordinance 2.64.020, "Public Exigency", allows the City Manager to authorize work to be performed by a contractor without formal bidding.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal by providing reliable sewer service to the Sewer Utility customers.

Recommendations/Actions: It is recommended that City Council affirm the City Manager's Public Exigency approval of the project.

Attachments: Memo.



Interoffice Memorandum

TO: Robert Layton, City Manager
FROM: Chris M. Carrier, Interim Director of Water Utilities
DATE: June 24, 2010
SUBJECT: Emergency Sewer Line Repair/Amidon & 25th St N

In the southbound lanes of Amidon south of 25th Street North, a street collapse and sinkhole developed the morning of June 22, 2010. Street Maintenance contacted Sewer Maintenance and the site was investigated. Traffic control was established for public safety, with Amidon reduced to one lane in each direction. It was discovered that in 8" VCP sanitary sewer installed in 1956 had collapsed. Immediate repairs were attempted but were not possible due to the amount of pipe that has failed.

The depth of the pipe is approximately 14 feet in very sand conditions, which are beyond the capability of the Department's shoring equipment. An outside contractor will need to be hired to replace a portion of the sewer main. Sewer Maintenance has set up bypass pumping and they are maintaining the line to prevent backups until a contractor is hired. Due to the amount of sand entering the City's main line, the damage to the street, and the expense of continued bypass pumping, the repair needs to be performed quicker than the formal bid process will allow.

Staff will meet on site with several contractors to take informal bids to repair the water main.

Funding will be from CIP project S-4, Sanitary Sewer Reconstruction. Inspection of the project will be coordinated with Public Works.

I request that you declare this a Public Exigency, which is defined under City Code, Section 2.64.020(a), as an instance when public exigency will not permit the delay incident to advertising, as determined and approved by the City Manager. An approval line has been provided if you concur with this request. A subsequent agenda item will be prepared to obtain Council acknowledgement of this declaration action.

Robert Layton, City Manager

Cc: Bill Perkins Sewer Maintenance

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Annexation of Street Right-of-Way in Sedgwick County by the City of Andover (District II)

INITIATED BY: Department of Water Utilities

AGENDA: Consent

Recommendation: Authorize a waiver of water service contractual requirements with the City of Andover.

Background: The City of Wichita has received a request from the City of Andover concerning the proposed annexation by Andover of a section of street right-of-way at 159th Street from 21st Street North to ½ mile north of 21st Street North. This action would be in violation of Section 12 of the water service contract between Wichita and Andover which states that Andover will not annex any land located in Sedgwick County between 29th Street to the north and Pawnee to the south. Andover indicated that they wished to acquire this street right-of-way for the purpose of maintaining and owning recent paving improvements, that have been made in conjunction with a new school.

Analysis: City staff has reviewed the request. It was the conclusion of staff that, although granting Andover's request would constitute a technical violation of the water service contract, there were no substantive issues involved relating to such items as development patterns, retention of customer base, etc., which are the basis of the contract provisions relating to annexation limitations. Should Council agree to the right-of-way annexation request by the City of Andover, a waiver by the City of Wichita on the prohibition of annexation would be provided to Andover.

Financial Considerations: The proposed annexation has the potential to reduce future street maintenance costs for the City of Wichita.

Goal Impact: This project addresses the Efficient Infrastructure goal by helping to keep maintained and optimized public systems.

Legal Considerations: The Law Department has indicated that a memorandum from the Interim Director of Water Utilities will serve as an acceptable legal document for the granting of the request.

If the City Council concurs with the recommendation, staff will proceed to advise Andover of the approval of the request. It would be stipulated that use of the property to be annexed would be limited now and in the future to street right-of-way.

Recommendations/Actions: It is recommended that the City Council approve the request and authorize the Interim Director of Water Utilities to issue a memorandum advising the City of Andover of the approval of the waiver of the annexation provision in the water service contract pertaining to the specified section of street right-of-way at 159th Street between 21st Street North and ½ mile north of 21st Street North.

Attachment: Letter to Andover.

Ms. Sasha Stiles
City Administrator
City of Andover
909 N Andover Rd.
P O Box 295
Andover, KS 67002

Dear Ms. Stiles,

The Wichita City Council approved Andover's request for a waiver of the annexation limits in the water service contract by and between the cities of Andover and Wichita on July ____, 2010.

It was stipulated in the action by the City Council on this date that annexation is limited to the portion of the street right-of-way in Sedgwick County along 159th Street East between 21st Street North and ½ mile north of 21st Street North. This action was taken per the City of Andover's request due to the maintenance issues that may arise on the newly paved portion of 159th Street East that was recently completed by the City of Andover.

It was further stipulated by the action of the City Council that use of the property covered by the annexation waiver is to be limited now and in the future to street right-of-way.

If you should have questions or concerns, please advise.

Sincerely,

Christopher M. Carrier
Interim Director of Utilities

Cc: Kristi Irick, Customer Service Manager

City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: HPC2010-00165 – “Environs” Review of the Proposed Demolition of 1619 N. Fairmount (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: City Council Consent

Historic Preservation Board Recommendation: Deny the demolition of 1619 North Fairmount.

Staff Recommendation: Overturn the decision of the Historic Preservation Board (HPB) and approve the demolition, based on a finding that there is no feasible and prudent alternative.

Background: The City of Wichita has a programmatic agreement with the State Historic Preservation Office for the Historic Preservation Board (HPB) to review all projects located within 500 feet of state/national register listed properties in accordance with K.S.A. 75-2715-2725 and the “Standards for Evaluating the Effect of a Project on Environs,” published February 24, 1998.

On May 4, 2010, the City Council reviewed condemnation case CDM-A-3-2010 for 1619 North Fairmount. During the condemnation hearing it was evident the property owner was not inclined to invest any more money in the property. The City Council granted the owner an additional 30 days to correct the housing code violations or demolish the structure. This finding by Council was made in accordance with the City Building Code. As of June 5, 2010, there was not any evidence that any repair work had begun.

1619 North Fairmount is located within 500 feet of four, state and national register listed properties: Fairmount Congregational Church, 1655 Fairmount; Fairmount Apartments, 1702 Fairmount; Fairmount Cottage, 1717 Fairmount and Holyoke Cottage, 1704 North Holyoke. After the City Council made their May 4, 2010, demolition determination, the request was referred to HPB to comply with environs review requirements.

Analysis: This case was afforded a public hearing at the June 14, 2010, Historic Preservation Board meeting. By a 7-0 vote, the HPB found the demolition of the structure does encroach, damage or destroy the environs of the state and national register listed properties by altering the spatial relationship of the historic properties’ environs (Standard 1); changing the physical record of the historic properties’ environs (Standard 3); and creating an open space through demolition of a character-defining structure (Standard 4).

The Office of Central Inspection is appealing the decision of the HPB. The property owner was contacted and indicated to staff that he does not intend to repair the structure and wants it demolished. The owner has not indicated what the future use of the lot would be once demolition is completed. Since the property is located within the 500-foot “environs” of a listed property, demolition cannot proceed without

the City Council finding that there are not any “feasible and prudent alternatives” to demolition. To support this finding, it is pointed out that this property has a history of code violations that have yet to be resolved; has sat vacant for a number of years and generated complaints by neighbors who have stated that they have had to mow the yard and secure the building themselves.

Financial Consideration: The property owner will pay for demolition. No costs will be incurred by the City.

Goal Impact: Safe and Secure Community.

Legal Consideration: The Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S. A. 75- 2724 and the City Code Section 2.12.1024.5. In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and must find there is no “feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use.”

Recommendation/Actions: Overturn the decision of the HPB and approve the ~~design~~, **demolition** based on a consideration of all relevant factors and determine that there is “no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use.”

Attachment: Excerpt of minutes of June 14, 2010 Historic Preservation Board meeting
HPB notification letter
Environs map with subject property



Wichita-Sedgwick County Metropolitan Area Planning Department

HISTORIC PRESERVATION BOARD

HISTORIC PRESERVATION CASE NUMBER: HPC2010-00165, Environs

Fairmount Congregational Church – 1655 N Fairmount, Fairmount Apartment – 1702 N Fairmount, Fairmount Cottage – 1717 N Fairmount, and Holyoke Cottage, 1704 N Holyoke.

APPLICANT/AGENT:

City of Wichita
Office of Central Inspection

Address: 455 N. Main, 7th Floor

City/Zip: Wichita, Kansas 67202

REQUEST:

Demolish residential structure

LOCATION:

1619 N Fairmount

BOARD ACTION: At the regularly scheduled meeting of the Historic Preservation Board held June 14, 2010 at 2:00 p.m. in the Large Conference Room, 10th Floor, City Hall, the following action was taken by a 7-0 vote:

Item 8-D: The Historic Preservation Board found the proposed project as reviewed in accordance with K.S.A. 75-2715-2725 does encroach upon, damage, or destroy the environs of the Fairmount Congregational Church – 1655 N Fairmount, Fairmount Apartment – 1702 N Fairmount, Fairmount Cottage – 1717 N Fairmount, and Holyoke Cottage, 1704 N Holyoke.

Any changes made to the scope of work as approved by the Historic Preservation staff must be resubmitted for review and approval. Any other work not specified in this application must be submitted for approval to the Historic Preservation Office. Section 2.12.1025 allows for penalties up to \$500.00 per day for violation of this procedure. You have five days to appeal the decision of the Historic Preservation Board.

If you have any questions, you may contact a Historic Preservation Planner at the Wichita-Sedgwick County Area Planning Department, City Hall, 455 N. Main, 10th Floor, telephone 316-268-4421.

A handwritten signature in cursive script that reads 'Kathy L. Morgan'.

Kathy L. Morgan, Senior Planner
Wichita Historic Preservation Office

Date: July 15, 2010

MINUTES - Excerpt

**WICHITA HISTORIC PRESERVATION BOARD
14 JUNE 2010
CITY HALL, 455 N. MAIN, 10TH FLOOR
2:00 P.M.**

E. MAJOR: HPC2010-00165 Environs, Fairmount Church, Fairmount Apartment, Fairmount Cottage, Holyoke Cottage
APPLICANT: City of Wichita, OCI
FOR: 1619 Fairmount

Office of Central Inspection is requesting approval for demolition of this property to resolve housing code violation.

Motion #9 made by Seiwert, 2nd by Churchman to find that HPC2010-00165, as reviewed in accordance with K.S.A. 75-2715-2725, does encroach upon, damage, or destroy the environs of the Fairmount Church, Fairmount Apartment, Fairmount Cottage and Holyoke Cottage. Motion carried unanimously (7-0).

ITEM NO. 9 MISCELLANEOUS MATTERS

1. Board members who attended the State preservation conference gave brief reports about the sessions that they attended.

ITEM NO. 10 ADJOURNMENT

Motion #10 made by Seiwert, 2nd by Churchman to adjourn at 4:30 p.m. Motion carried unanimously (7-0).



City of Wichita
City Council Meeting
July 20, 2010

TO: Mayor and City Council

SUBJECT: Sunflower Trails Grant for Harvest Park. (District V)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the grant application.

Background: The Sunflower Foundation has developed this request for proposal to help increase physical activity to build community based recreational walking or multi use trails. The goal of the program is to improve the health of students, families and communities by creating new or expanded public trails to increase the opportunity for physical activity.

Analysis: Harvest Park is located in west Wichita at 9500 Provincial Lane. Land ownership is the Board of Park Commissioners. Sidewalks have been previously installed on the south and east sides of the park. Harvest Park amenities include the Harvest Park Pool, 2 tennis courts, multi use basketball court and parking lot. McCollum Elementary School is located on the southeast side of the park.

The grant will provide partial funding to install approximately 1900 feet of trail on the north and west sides of Harvest Park. The trail will be 4 inch reinforced concrete 5 feet wide. The grant was electronically submitted on June 30, 2010 with the City Manager's approval. Submission deadline was July 1, 2010.

Financial Consideration: The grant request is for \$16,575, matching funds are required. The estimated cost of the project is \$41,150. The remaining \$24,575 in matching funds will be initiated from the 2010 Park Renovation Fund (PFR) in the Park CIP.

Goal Impact: The completed trail will provide a safe connection to the neighborhood elementary school, increase wellness opportunities by creating an exercise loop around the park, increase access to existing park facilities and improve the Quality of Life for neighboring citizens. These objectives are in line with the Mayor's Health Initiative.

Legal Consideration: The grant application and/or accompanying documents have been reviewed by the law department and approved as to form.

Recommendation/Actions: Approve the grant application.

Attachments: Grant application
City Manager Approval

Sunflower Trails Grants

Application Information - Sunflower Trails (RFP 10-104)

ISSUE BACKGROUND

Changing the built environment is one strategy to increase physical activity and reduce the prevalence of obesity. In many Kansas communities, there is a need for safe, accessible trails. While individuals must choose to exercise, communities and schools can make that choice easier. The goal of this program is to improve the health of students, families and communities by creating new or expanded public trails to increase the opportunity for physical activity. Our focus is on recreational walking trails, though multi-use trails will also be considered.

PURPOSE OF FUNDING

The Sunflower Foundation has developed this RFP to help increase physical activity through public and private support to build community-based or school-based recreational walking or multi-use trails.

TARGET APPLICANTS

This RFP targets two types of applicants:

1. Community-based (organizations or groups interested in building trails in a community setting); and
2. School-based (schools or school districts interested in building a trail on school property).

Priority funding consideration will be given to organizations/projects that have not received a prior Sunflower Foundation Trails grant.

ELIGIBILITY

To apply for Sunflower Foundation funding, organizations must meet one of the following criteria:

1. Demonstrate a tax-exempt status under Section 501(c)(3) of the Internal Revenue Service Code; or
2. Be an instrumentality of state or local government, provided Sunflower Foundation support will not replace existing project funding.

Organizations that do not meet the above criteria or that are seeking matching funding to secure state or federal grants for larger trail projects should contact the Sunflower Foundation before applying for funding.

NOTE: Organizations that have an active Sunflower Foundation trail grant may not apply for funding under this RFP.

AWARD LIMITS

Grants will not exceed \$25,000.

USE OF GRANT FUNDS

1. Trail building materials - up to \$15,000
 - Materials to be chosen at the discretion of the applicant organization (e.g. cement, asphalt, crushed stone)
2. Trail enhancements - up to \$5,000
 - Trail lighting - to improve security and increase usable hours
 - Distance signage - to help users plan and keep track of trail usage
3. Trail treescaping - up to \$5,000
 - For trail shading - this funding is for trees only, and does not cover general/aesthetic landscaping

PROJECT TERM

Grants are expected not to exceed a term of one year.

MATCHING FUNDING REQUIREMENTS

Applicants must demonstrate a cost share in the project through a cash match of \$1 to \$1 of the total amount requested from the Sunflower Foundation.

Most project expenses that relate directly to the cost of a trail project qualify as a cash match. However, the Sunflower Foundation does not allow general operating or overhead/indirect expenses, staff salaries/benefits or in-kind contributions to the project as cash match. Further information about the cash match can be found in the "RFP Definitions & Tips" document which can be found under the "Downloads & Forms" link above.

TRAIL REQUIREMENTS

Trails are generally expected to be at least 1/4 mile in length.

The width of the trail will depend on the scope of the project, though a minimum of 5' - 6' is expected, with 8' - 10' preferred, especially if you are proposing a multi-use trail.

Public access to the trail is required.

FUNDING EXCLUSIONS

The following general exclusions apply to all Sunflower Foundation funding:

1. Fundraising campaigns, events or materials
2. Routine continuing education (such as licensure, accreditation, etc.)
3. Support of organizations that practice discrimination
4. Individual medical care or support

These additional exclusions apply specifically to Sunflower Trails grants:

1. Physical fitness equipment
2. Fitness facility dues/membership fees

TIMELINE:

- Proposals received by Thursday, July 1, 2010 - funding announcements will be made by Friday, August 20, 2010

Organization Information

Getting Started

Please note the navigation links at the upper left of the page: 'Contact Us' to send an email question, 'Downloads & Forms' for tips on completing the application and required forms, or 'Exit', which will return you to our main website.

Organization Name

Enter the name of the applicant organization. Or, if you are the fiscal agent applying on another organization's behalf, please include your information here.

City of Wichita, Department of Park and Recreation

Organization you are applying on behalf of (if applicable)

Address

City of Wichita
Department of Park and Recreation
455 North Main, 11th Floor

City

Wichita

State

KS

Zip Code

67202

Phone

Please use (xxx-xxx-xxxx) format

316-268-4361

Fax

Please use (xxx-xxx-xxxx) format

316-858-7768

Website

www.wichita.gov

County of Organization

Sedgwick

Tax ID

486000653

Tax Status

Governmental agency

Contact Information

Helpful Hint - Once in the application, you may access an easy-to-read snapshot of the entire application by clicking the "Printer Friendly Version" link at the top of the page.

Executive Director or Other Authorized Signer for Organization

Prefix

Mr.

First Name

Douglas

Middle Name

R.

Last Name

Kupper

Title

Director of Park and Recreation

E-mail

dkupper@wichita.gov

Address

City of Wichita
Department of Park and Recreation
455 North Main, 11th Floor

City

Wichita

State

KS

Zip Code

67202

Phone

Please use (xxx-xxx-xxxx) format

316-268-4628

Fax

Please use (xxx-xxx-xxxx) format

316-858-7768

Project Manager

If different from Executive Director

Prefix

Mr.

First Name

Larry

Middle Name**Last Name**

Hoetmer

E-mail

lhoetmer@wichita.gov

Address

City of Wichita
Department of Park and Recreation
455 North Main, 11th Floor

City

Wichita

State

KS

Zip Code

67202

Phone

Please use (xxx-xxx-xxxx) format

316-268-4361

Fax

Please use (xxx-xxx-xxxx) format

316-858-7768

Contact for this application

If different from above

Title

Assistant Director of Park and Recreation

First Name

Karen

Last Name

Walker

Phone

Please use (xxx-xxx-xxxx) format

316-268-4130

E-mail

klwalker@wichita.gov

Project Description

IMPORTANT: Do not use your browser's BACK key - you will lose all unsaved data!

Project Title

Harvest Park trail completion

Project Description

Harvest Park is located in West Wichita at 9500 Provincial Lane. The project will construct 1900 linear feet of 5' wide concrete reinforced pathway to complete a trail system around the exterior of the park, approximately 1200' on the north side and 700' on the west side of the park. Crosswalks are at all corners. The park is heavily used by all ages. 21 additional 2.5" caliper trees will be planted alongside the path for shading and rest areas

Project Start Date

11/01/2010

Term of project

In whole months

2

Type of Organization

Please choose the one that most accurately describes your organization.

Governmental

If you chose "Other" for type of organization, please explain here.

Program Area

Health Promotion / Disease Prevention / Health Education-Built Environment

County of Lead Organization

Sedgwick

Counties Served by Project

NOTE: Select all counties served by this project. If your project serves fewer than 5 counties, leave additional options blank and continue to Population Served by this Project. If your project serves more than 5 counties, please list all of the remaining counties in the space provided below. Please refer to the Kansas County Abbreviations form available under the "Downloads & Forms" link above.

SG

Please list any additional counties served by this project.

Population Served by this Project

NOTE: Please select all that apply, leaving unnecessary fields blank.

Target Population

Families

Youth

Seniors

Age Group

All Ages

Ethnicity

All

Gender

Both

PROJECT NARRATIVE

Please complete a comprehensive narrative addressing ALL of the following points.

Please label your responses to match the requested information.

I. INTRODUCTION

1. Describe your organization's history and mission.

The mission of the Park and Recreation Department is to provide safe and attractive parks and open space for the leisure time pursuits of all residents and visitors, and to attract and retain citizens in the community. The City of Wichita Park and Recreation Department provides parks, trails, open spaces, and recreation services for the Wichita community.

The first City of Wichita parks were created in 1870, and the system was significantly expanded in the 1920's by then Mayor L.W. Clapp. In the 1920's the Wichita Board of Park Commissioners and City of Wichita Park and Recreation Department were created to oversee and maintain the park system. Today the Wichita Park and Recreation Department provides parks, trails, open spaces, and recreation services for the Wichita community. The park system is composed of 123 parks, including a number of public open spaces, that total over 4,400 acres of land. Another 2,400 acres of medians, highways, arterials and boulevards are also maintained by the department. A system of greenways, or recreation corridors consisting of small parcels of open space land, are planned to ultimately connect many of the City's major parks and provide additional hiking and biking opportunities to citizens.

2. Identify all key partners for this project.

City of Wichita, Department of Park and Recreation

3. Describe any trail projects in your community previously funded by the Sunflower Foundation and if this request is related.

In 2005 the City of Wichita received funding from the Sunflower Foundation to construct a walking trail in Grove Park which is located in the north-central part of the city. This portion of the city is low income and identified for neighborhood improvement. In 2009 the City of Wichita received funding from the Sunflower Foundation to construct approximately one half mile of the Red Bud Trail, a multi-use pathway system along an abandoned railway corridor in an inner city neighborhood. The Redbud Trail has the potential to expand into a major walking/biking trail connection to the east city limits and beyond.

II. NEED

1. Need for the project:

- a. Describe the factors that influenced your organization's decision to develop a trail.
- b. Explain any assessments, surveys or other data used to support the need.

a. Harvest Park is heavily used by all ages in a diverse neighborhood in West Wichita. Citizens, through District 5 Advisory Board and neighborhood meetings, have repeatedly petitioned the city to complete the trail system in this park. Harvest Park facilities include a swimming pool, two tennis courts and a basketball court. McCollom Elementary School is located on the southwest corner of Harvest Park. Completing the trail system around this park will encourage physical activity, extend use of the area and provide a safe location for walking, jogging and biking. Sidewalks were previously installed on the south and west portions of the park, leaving the street as passage for the north and west areas.

b. Health and Wellness is an increasing concern for all citizens as we acknowledge the state of our "weight". Nearly 67% of adults over age 20 are overweight and the nation is facing an epidemic of childhood obesity, as outlined in the White House Task Force on Childhood Obesity to the President. Walking, jogging and biking provide affordable and non-restrictive exercise for all ages. Park and Recreation endeavors to provide safe and accessible pathways to promote these activities. People of all ages who lead active lives will likely have leaner bodies, stronger bones and muscles, improved coordination, better posture, and fewer health complications. In addition to the physical benefits, activity increases concentration, self-esteem, decreases the occurrence of depression or anxiety, and elevates an overall outlook on life. By providing an easily accessible walking area that surrounds multiple facilities promoting physical activity, the health and vitality of this neighborhood and all citizens accessing the park will improve.

2. Explain why a grant from the Sunflower Foundation is needed to support this project.

Neighborhood citizens have requested a completed pathway for safe access to existing park facilities and to provide increased opportunity for health and fitness. Parents in the area have requested a completed pathway to increase safety for children walking to school.

III. GOAL, OBJECTIVES, ACTIVITIES, & OUTCOMES

1. Provide a broad statement of your project GOAL.

The trail completion at Harvest Park will increase physical activity in the community as well as improve the health of citizens in the neighborhood and those accessing the park. The trail will also provide a safe route for all ages to walk, jog, bike and access the recreation facilities in the park. The completed trail will provide safe walking access to McCollom Elementary School, located on the southwest corner of the park.

2. List your project OBJECTIVES, stating what you intend to accomplish in measurable terms.

To provide a safe connection to the neighborhood elementary school.
 Increase wellness opportunities by creating an exercise loop around the park.
 Increase access to existing park facilities.
 Improve Quality of Life for neighboring citizens.

3. List the required project ACTIVITIES and how they will address the identified goal and objectives.

- a. Outline when the activities will occur (i.e. provide a timeline).
- b. While it is expected that projects begin after funding has been awarded, if any of your project activities have already occurred or are currently underway, please explain why you are now seeking foundation support to continue or sustain the project.

- a. Construction will begin by November 1, 2010 and be completed in two months.
- b. The project has not started.

4. Identify the intended project OUTCOMES, indicating desired changes in the target of the project that will be the direct result of the Goal and Objectives.

Increased activity and participation on the path.
Provide safe route for children to get to school and other existing park amenities.
Increase access to existing park facilities.
Achieve improved community health.

IV. PROJECT DETAILS

1. Indicate type of trail: walking only or multi-use (e.g. accommodating bicycles)

NOTE: This RFP does not include funding for the "Complete Streets" model.

Harvest Park trail will be multi-use, accomodating citizens who walk, jog or ride bicycles. City Ordinance prohibits motorized transportation on pathways. The trail will be 5' wide, constructed of 4" reinforced concrete, non-linear with grade changes giving the trail interest. 21 additional 2.5" caliper trees from the Kansas Approved Trees list will be planted along the trail for shading and rest areas.

2. Indicate if this project is a:

- a. New trail, Expanded trail, or Trail Improvement
- b. If this request is for trail improvement, provide details to demonstrate that use has declined/is not currently possible and that there is a demonstrated need/demand that justifies plans to improve the trail.
- c. Describe what trail improvements are being proposed and why. **NOTE:** The foundation will consider trail improvements such as widening or resurfacing an existing trail only if it relates to increased use.
- d. Explain if this proposed trail is part of a larger community trail plan.

a. The project at Harvest Park will be an expansion and connection from an existing sidewalk. It is not currently possible to traverse the exterior of the park by pathway. The current sidewalk serves the west and south portions of the park only. The neighborhood has repeatedly requested, through various means, the pathway be completed giving citizens full access to a trail that circumferences the park. The requests have detailed safety concerns as well as providing an easily accessed area for physical activity and health improvement.

- b. This is not a trail improvement.
- c. none
- d. The trail would complete the neighborhood plan for Harvest Park.

3. Design and Construction

- a. Specify trail length (in feet).
- b. Specify trail width (in feet).
- c. Specify proposed trail surface materials and depth of materials.
- d. Describe trail location.
- e. Identify key trail features and any points of interest.

- f. List any challenges to access and safety that will be addressed (e.g. drainage, highways, rail corridors, etc.).

- a. The total pathway expansion length will be 1900 linear feet.
- b. The pathway width will be 5 feet.
- c. The construction will be 4 inch reinforced concrete.
- d. Approximately 1200' will be located on the southside of West Harvest Lane between North Westlink Avenue and North Waddinton Ave and 700' along the west side of North Westlink Avenue between West Harvest Lane and West Provincial Lane. The pathway along West Harvest Lane will connect to an existing sidewalk on North Waddinton Avenue, the south end of the pathway along North Westlink Avenue will connect to an existing sidewalk on West Provincial Lane.
- e. The trail will pass the Harvest Park swimming pool, tennis courts and basketball court and run adjacent to a parking lot, providing easy access to the trail.
- f. There are no abnormal challenges to construction on this site.

4. Access

- a. Describe public access to the trail. Include information about hours of operation, parking, access by walking from other locations, handicapped access, etc.
- b. Describe the proximity of the proposed trail to key area attractions and/or facilities (e.g. schools, parks, health centers, etc.).
- c. Explain if/how the proposed trail will connect to other trails in the area.

- a. The trail will be handicap accessible and provide unrestricted access to citizens between the park hours of 6:00 a.m. and 12:00 a.m.
- b. Facilities within the park include the Harvest Park city swimming pool with wading pool, bathhouse, restrooms and concessions, two open access tennis courts and a basketball/multi-use court. A paved off street parking area provides 49 parking stalls and side street parking is also allowed. McCollom Elementary School is located on the southwest corner of the park having approximately 420 students enrolled.
- c. There are existing sidewalks on streets which connect to the park which will provide extended access to the neighborhood.

5. Enhancements

If you are requesting funding for any of the following items, please describe your plans:

- a. Lighting (type and number of proposed trail lights)
- b. Signage (type and number of proposed trail distance signs)
- c. Treescaping (type and number of proposed trees for trail shading)

- a. none
- b. none
- c. 21 additional trees will be planted alongside the trail to add shading to the path and also provide an area of rest. The trees will be B&B, and have at least a 2.5" caliper. Tree species will be chosen from the Kansas Approved Trees list. Previous bids value this size tree at \$150.

6. Ownership

- a. If the proposed trail will be on public property, please provide details.
- b. If the trail is on private property, please explain:
 - i. Who will own the trail.
 - ii. How public access will be assured.
- c. If the trail is adjacent to private property, verify that appropriate measures have been taken to

secure support from the property owners and to resolve any related trail access issues.

- a. The property located at 9500 Provincial Lane and named Harvest Park is owned solely by the Board of Park Commissioners of Wichita, Kansas. Parcels were acquired in 1963 and 1970 and are protected by the Board as public park land.
- b. Land is public property.
- c. The park is located in a residential area. The neighborhood has requested the completion of the pathway around Harvest Park.

7. Maintenance

All Sunflower-funded trails require a plan to guarantee maintenance for at least ten years.

- a. Identify who will assume responsibility for maintaining the proposed trail.
- b. Indicate how the required trail maintenance will be funded.
- c. Describe the plan for routine maintenance.

- a. Maintenance will be the responsibility of the Department of Park and Recreation of the City of Wichita.
- b. Funding will be provided by the General Fund of the Department of Park and Recreation of the City of Wichita.
- c. Park grounds and facilities are inspected and maintenance scheduled on a routine basis.

8. Awareness

- a. Describe any special events or programs planned to promote trail usage.
- b. List any other groups/organizations that will assist in promoting use of the trail.

- a. The Department of Park and Recreation is currently seeking a grant to improve health and wellness in the community. Programs will be implemented to increase walking groups, increase facility usage and promote healthy activities for all ages.
- b. Greenway Alliance and McCollum Elementary School.

V. RESOURCES

1. Identify key individuals responsible for the project and the role each will play.

Larry Hoetmer, Park and Recreation Landscape Architect - Oversight
Jan Long, Park and Recreation Engineering Technician - Inspection
Tom Herbst, Park and Recreation Maintenance Supervisor - Support

2. List all sources of funding for the proposed trail.

Sunflower Foundation
City of Wichita, Department of Park and Recreation

VI. EVALUATION

1. Explain how the success of the trail will be evaluated and how supporting data will be collected.

The trail success will be through observation of increased citizen usage and feedback to the department from citizens, neighborhood associations and District Advisory Board V.

VII. SUSTAINABILITY

1. Describe plans to ensure ongoing financial and promotional support for the proposed trail.

Financing will be provided by department resources and park renovation funding. A maintenance fund will provide ongoing maintenance support. Promotion will be provided by the Department of Park and Recreation and Greenway Alliance.

Budget & Budget Narrative

IMPORTANT: Do not use your browser's BACK key - you will lose all unsaved data!

BUDGET & BUDGET NARRATIVE

NOTE: Please use the Budget and Budget Narrative Forms provided under the "Downloads & Forms" link above to complete this section.

Complete all appropriate budget entries (rounded to the nearest dollar) on the Budget Form. Complete the Budget Narrative Form, explaining the following:

- The amounts requested from the Sunflower Foundation (trail materials, lighting, distance signage and/or trees only); also include a description of other project expenses listed in the Applicant Organization and/or Other Funding column(s) of the Budget Form (e.g. contractors, supplies, etc.).
- How you will secure the required cash match (NOTE: Applicants must provide a \$1 for \$1 cash match of the Sunflower Foundation award; verification of match is required).
- Any in-kind support from partners and/or applicant.

Total Project Budget

\$41,150.00

Amount Requested from Sunflower Foundation

\$16,575.00

Attachments

Title	File Name
Copies of bids	Unit Cost Pricing for Walk and Trees.docx
Documentation of trail ownership	GIS Ownership of Harvest Park.doc
Schematic or drawing of the proposed trail	Harvest sidewalk-Grant.pdf
Photos of the trail site	hvst grant2.pdf
Photos of the trail site	hvst grant3.pdf
Photos of the trail site	hvst grant6.pdf
Photos of the trail site	hvst grant7.pdf
Budget Narrative	Budget Narrative Form 10-102.docx
Letters of support	City Manager Approval.pdf
Budget Form	Budget Form - RFP 10-102 BG1.xlsx
IRS Form 990	Wichita Tax Exemption Form.pdf
Current financial statements; include income statement and balance sheet	City of Wichita Budget Information and Financial Statement Links.docx
Most recent audit	Most Recent Audit.pdf

Files attached to this form may be deleted 120 days after submission.



INTEROFFICE MEMORANDUM

TO: Robert Layton, City Manager
THROUGH: Douglas Kupper, CPRP, Director of Park and Recreation
FROM: Karen Walker, Assistant Director of Park and Recreation
SUBJECT: Healthy Wichita Grants
DATE: June 28, 2010

Attached are two Healthy Wichita Grants which require your signature. The Department of Park and Recreation requests to submit the Grants on Thursday July 1, 2010, this is the Grant deadline. The first grant is for \$15,000 to fund Nutrition Education and Food Preparation Classes at Recreation Centers, the second grant is for \$15,000 for the Development of Walking Groups at Recreation Centers. No matching funds are required.

A copy of the application has been provided to Dale Goter, Grant in Aid Coordinator and submission to City Council will be made as soon as possible. With your approval, the grants will be submitted to meet the July 1, 2010 deadline.

Cc: Dale Goter, Grant in Aid Coordinator



Sunflower Foundation
HEALTH CARE FOR KANSANS

Budget Narrative Form

BRIDGE GRANTS – RFP 10-102

Instructions:

- Describe all entries on your Budget Form in detail, including basis for calculations.
- This form includes the key budget categories for which Sunflower Foundation grant funds are allowed. Add other line items as necessary for project expenses that are the responsibility of the applicant. Be sure to specify items funded by the required match.
- If a category does not apply and is blank on your Budget Form, write “N/A” in the space provided on this form.
- Elongate this form as necessary to adequately describe all entries.

Revenue

Sunflower Foundation

Trail Materials 4”reinforced concrete, 5’ wide	\$15,000.00
Trail Treescaping: 21 trees @ \$150.00/2	<u>\$1,575.00</u>
Total Grant Request	\$16,575.00

Other Grant Funding (if applicable)

N/A

Applicant Organization

City of Wichita will provide Matching/Additional funding	
Trail Materials 4”reinforced concrete, 5’ wide	\$23,000.00
Trail Treescaping: 21 trees @ \$150.00/2	<u>\$1,575.00</u>
Total Matching/Additional funding	\$24,575.00

Projected Revenue (if applicable)

N/A

Expenses

Personnel (salaries) – Existing

Provided by Department of Park and Recreation

Personnel (salaries) - New

N/A

Benefits (max=25% of salaries; based on documented actual)

N/A

Indirect Expenses (max=15% of salaries + benefits)

N/A

Other

Trail Materials 4”reinforced concrete, 5’ wide	\$38,000.00
Trail Treescaping: 21 trees @ \$150.00	<u>\$ 3,150.00</u>
Total Projected Cost	\$41,150.00

Any minor grading and restoration is subsidiary to the cost analysis.

**City of Wichita
City Council Meeting
July 20, 2010**

TO: Mayor and City Council Members

SUBJECT: General Obligation Refunding Bonds and Temporary Note Sale

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Adopt the resolution.

Background: The City is planning to offer for sale one series of General Obligation Sales Tax (LST) Refunding Bonds (Series 2010A) in an approximate amount of \$22,315,000, one series of General Obligation Refunding Bonds (Series 2010B) in an approximate amount of \$29,885,000 and one series of General Obligation Improvement Temporary Notes (Series 240) in an approximate amount of \$140 million. The public sale of the bonds and notes is scheduled for 10:00 a.m. C.T. on August 17, 2010, at which time bids will be received and the City Council will award the sale of bonds and notes to the bidders whose proposed interest rates result in the lowest overall cost to the City.

City of Wichita Ordinance Nos. 45-188, 45-363, 45-545, 45-546, and 45-760 authorized the issuance of General Obligation Bonds Series 768 dated February 1, 2002 in the principal amount of \$6,390,000, Series 770 dated August 1, 2002 in the principal amount of \$8,590,000, series 772 dated February 1, 2003 in the principal amount of \$15,420,000, Series 773 dated February 1, 2003 in the principal amount of \$13,340,000 and Series 774 dated August 1, 2003 in the principal amount of \$12,395,000, respectively. All bonds still outstanding as of October 1, 2010, are eligible for redemption and payment prior to their respective maturities as set forth in each respective Bond Ordinance.

City of Wichita Resolution No. 04-405 and Ordinance No. 46-222 authorized the issuance of General Obligation Sales Tax Bonds Series 2004 dated August 1, 2004 in the principal amount of \$36,000,000. These bonds are callable on and after April 1, 2011.

On June 15, 2010, the City Council adopted rate increases for the Water Utilities and approved an option to proceed with the full Phase II Aquifer Storage Recovery (ASR) project based on the 30 MGD system. This option assumes a combination of general obligation and/or revenue bond financing for funding the remainder of the ASR project. A resolution was approved by the City Council on July 13, 2010 to establish the advisability of the ASR project and authorize the issuance of general obligation bonds under K.S.A. 13-1024c and City of Wichita Charter Ordinance No. 156.

Analysis: State and federal law permits local governments to issue refunding bonds which replace previously issued and currently outstanding bonds. If the bonds being refunded are currently callable, they can be refunded with “current refunding” bonds, without limitation as to the number of times the original bonds have been refunded. If the bonds being refunded are not currently callable, they can only be refunded with “advance refunding” bonds. Tax-exempt bonds originally issued after the effective date of the 1986 Tax Reform Act can only be advance refunded once.

The Series 2004 Bonds are not callable until April 1, 2011 and, therefore, are eligible for advance (crossover) refunding. Proceeds of the Series 2010A Refunding Bonds will be used to refund the April 1, 2012 through 2019 maturities of the Series 2004 LST Bonds dated August 1, 2004.

The Series 768, 770, 772, 773 and 774 Bonds have not been refunded previously and since these bonds are callable, the bonds qualify for a current refunding at this time. The Series 772 and 774 bonds are callable at a price of 101.00% and the Series 768 and 770 bonds are callable at 100.5% of the principal amount, plus accrued interest to the date established for redemption and payment. The Series 773 Bonds are callable at this at time at 100% of the principal amount.

Staff has investigated the savings potential from these refundings and has determined that significant savings in debt service costs can be obtained. Based on current market conditions, it is estimated that savings of approximately \$1.98 million in debt service costs may be recognized by the Debt Service Fund, with a present value of approximately \$1.98 million in connection with the current refunding of the Series 768, 770, 772 and 773 Bonds.

It is estimated that savings of approximately \$1.35 million in debt service costs can be realized by the Local Sales Tax CIP Fund, with a present value of approximately \$1.2 million on the advance refunding of the Series 2004 LST bonds.

Due to the complexities of the current and advance refundings, it is in the best interest to the City to utilize a financial advisor. The financial advisor will aid in the structure, timing, marketing, terms and verification of savings from the refundings on the sale date. Staff proposes the use of a financial consultant, Springsted Incorporated, to assist in the required refunding analysis and bond structuring. Springsted is the financial advisor to Sedgwick County, selected through a competitive selection process.

A minimum of thirty days notice of the City's intent to call the outstanding bonds prior to their stated maturities must be provided to all bond holders and Material Event Notices must be filed with the Electronic Municipal Market Access facility for municipal securities disclosure of the Municipal Securities Rulemaking Board.

Temporary Notes

The proceeds from the sale of the Series 240 Improvement Temporary Notes will be used to provide interim financing for improvements related to Phase II of the ASR project of the Water Utilities.

Financial Considerations: Beginning in 2001, the sale of bonds and notes has been awarded based on the bid with the lowest true interest cost, or "TIC". Using TIC to calculate the bids, accounts for the time value of money. The TIC is the rate that will discount all future cash payments so that the sum of their present value will equal the bond proceeds. Further, using the TIC calculation can potentially result in a municipality saving money because TIC does not ignore the timing of interest payments.

The Series 2010A Refunding Bonds will mature over the next eight years (2012-2019) with principal maturities structured to produce level and positive savings in all future years and will be paid from the City's portion of funds derived from a one percent (1%) county-wide retailers' sales tax that is dedicated by Ordinance 41-815 to paying the costs of local road, highway and bridge improvements, including right-of-way acquisitions.

The 2010 principal payment for the LST Series 2004 Bonds will be made as scheduled. The Series 2010A Refunding Bonds will be callable on and after September 1, 2017.

The Series 2010B Refunding Bonds will mature over the next eight years (2011-2018) with principal maturities structured to produce level and positive savings in all future years. The Series 2010B Refunding Bonds will not be callable.

The Series 240 Temporary Notes will mature on September 15, 2011 and may be called for redemption and payment prior to maturity on and after March 16, 2011. The temporary notes will be retired using the proceeds of permanent financing bonds, renewal notes and/or from current revenues of the City available for such purpose.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale. The sale of temporary notes allows short-term financing of improvements that shall be permanently financed through the subsequent issuance of bonds. The refunding bonds are being used refund special assessment, general obligation and local sales tax bonds in order to provide savings on interest expenses to the City.

Legal Considerations: The Law Department has approved the Resolution authorizing the sale of the series of bonds and notes and directing the distribution of the Notices of Bond and Note Sale (prepared by the City's Bond Counsel).

Recommendations/Actions: It is recommended the City Council adopt the resolution: 1) authorizing the general obligation refunding bonds, general obligation sales tax refunding bonds and general obligation improvement temporary note sales; 2) approving the distribution to prospective bidders of the Preliminary Official Statement, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel; 3) finding that such Preliminary Official Statement is in a form "deemed final" for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(1), subject to revision, amendment and completion in the final Official Statement; 4) authorizing distribution of the Notice of Sale; and 5) authorizing City staff, in consultation with Bond Counsel to take such further action reasonably required to implement this Resolution.

Attachments: Resolution
Official Notice of Sale

RESOLUTION NO. 10-198

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, AUTHORIZING THE PUBLIC SALE OF APPROXIMATELY \$22,315,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION SALES TAX REFUNDING BONDS, SERIES 2010A; APPROXIMATELY \$29,885,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010B; AND APPROXIMATELY \$140,000,000 OF PRINCIPAL AMOUNT GENERAL OBLIGATION IMPROVEMENT TEMPORARY NOTES, SERIES 240.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. The following obligations (collectively, the “Obligations”) of the City of Wichita, Kansas (the “City”), shall be offered at competitive public sale on August 17, 2010, at 10:00 a.m., Central Daylight Saving Time or at such other time and date approved by the Mayor that is the date of a City Council meeting:

Name of Obligation	Series	Approximate Principal Amount
General Obligation Sales Tax Refunding Bonds	2010A	\$ 22,315,000
General Obligation Refunding Bonds	2010B	29,885,000
General Obligation Improvement Temporary Notes	240	140,000,000

Section 2. Bids for the purchase of each series of Obligations shall be accepted through the *PARITY* Electronic Bid Submission System until 10:00 a.m., Central Daylight Saving Time, and will at such time be read aloud and tabulated by City staff. The bids will be considered and each series of Obligations will be awarded to the respective best bidder by the Governing Body at their earliest convenience following the deadline for receipt of the bids; provided, however, that the sale of each series of Obligations issued to refund outstanding bonds shall be conditioned on receiving a net present value savings of not less than 3% for the applicable series of Obligations.

Section 3. The City’s Bond Counsel, Kutak Rock LLP, in conjunction with City staff, are authorized to prepare a notice of sale and preliminary official statement in connection with the offering of the Obligations (the “Notice of Sale and Preliminary Official Statement”) and appropriate officers of the City are authorized to provide the original purchaser of each series of Obligations with a certification to the effect that the City deems the information contained in the Preliminary Official Statement “final” as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1) of the Securities Exchange Commission, and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable such original purchasers to comply with the requirement of such Rule.

Section 4. City staff is authorized and directed to give notice of the sale of the Obligations by making copies of the Notice of Bond Sale and Preliminary Official Statement available to prospective purchasers of the Obligations.

Section 5. City staff, in consultation with Bond Counsel, is hereby authorized to take such further action reasonably required to implement this Resolution, including, but not limited to, providing notice of outstanding bonds being redeemed and paid prior to their maturity with the proceeds of the Obligations and selecting an escrow trustee and a CPA firm for escrow verification.

Section 6. This Resolution shall be in full force and effect from and after its adoption.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on July 20, 2010.
(Seal)

Carl Brewer, Mayor

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

**CITY OF WICHITA, KANSAS
OFFICIAL NOTICE OF SALE**

**\$22,315,000* GENERAL OBLIGATION SALES TAX REFUNDING BONDS,
SERIES 2010A**

**\$29,885,000* GENERAL OBLIGATION REFUNDING BONDS,
SERIES 2010B**

**\$140,000,000* GENERAL OBLIGATION IMPROVEMENT TEMPORARY NOTES,
SERIES 240**

(General Obligation Bonds and Notes Payable from Unlimited Ad Valorem Taxes)

Date, Time and Place of Receiving Bids

Bids will be received by the Director of Finance on behalf of the Governing Body of the City of Wichita, Kansas (the "City"), via *PARITY* electronic bid submission system ("*PARITY*"), until 10:00 a.m., Central Daylight Saving Time (the "Submittal Hour"), on: **TUESDAY, AUGUST 17, 2010** (the "Sale Date"), for the purchase of \$22,315,000* principal amount of General Obligation Sales Tax Refunding Bonds, Series 2010A (the "Series 2010A Bonds"); \$29,885,000* principal amount of General Obligation Refunding Bonds, Series 2010B (the "Series 2010B Bonds"); and \$140,000,000* principal amount of General Obligation Improvement Temporary Notes, Series 240 (the "Notes").

All bids shall be publicly read and tabulated on the date and at the time above indicated and all bids and the tabulations thereof shall thereafter be presented to the Governing Body of the City at their earliest convenience in the Council Chamber at City Hall. The Series 2010A Bonds and the Series 2010B Bonds are herein collectively referred to as the "Bonds." The Governing Body will thereupon award each series of the Bonds and the Notes to the respective best bidders subject to the conditions set forth in this Notice.

Each series of Bonds and the Notes shall be sold separately, and bidders may bid on any series of Bonds or the Notes. No oral or auction bid for any series of Bonds or the Notes shall be considered, and no bid for less than the entire principal amount of the applicable series of Bonds or the Notes shall be considered.

Description of Bonds

Series 2010A Bonds. The Series 2010A Bonds shall be issued in the aggregate principal amount of \$22,315,000,* shall bear a Dated Date of September 15, 2010, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 2010A Bonds shall mature serially on April 1 in the years and principal amounts as follows:

* Subject to change.

Maturity Schedule - Series 2010A Bonds

<u>Maturing April 1</u>	<u>Principal Amount</u> *	<u>Maturing April 1</u>	<u>Principal Amount</u> *
2012	\$2,700,000	2016	\$2,790,000
2013	2,715,000	2017	2,830,000
2014	2,710,000	2018	2,880,000
2015	2,745,000	2019	2,945,000

The Series 2010A Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on April 1 and October 1 of each year, commencing April 1, 2011.

Series 2010B Bonds. The Series 2010B Bonds shall be issued in the aggregate principal amount of \$29,885,000,* shall bear a Dated Date of September 15, 2010, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Series 2010B Bonds shall mature serially on September 1 in the years and principal amounts as follows:

Maturity Schedule - Series 2010B Bonds

<u>Maturing September 1</u>	<u>Principal Amount</u> *	<u>Maturing September 1</u>	<u>Principal Amount</u> *
2011	\$4,610,000	2015	\$3,390,000
2012	4,605,000	2016	3,460,000
2013	4,600,000	2017	3,540,000
2014	3,335,000	2018	2,345,000

The Series 2010B Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2011.

Principal Amounts Subject to Change. The City reserves the right to increase or decrease the total principal amount of any series of Bonds and the principal amount of any maturity in order to properly size a Bond issue including adjustments based on net bond proceeds received by the City as a result of any premium bid. Adjustments, if required, will be made proportionately to each maturity as permitted by the authorized denominations of such series of Bonds. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of a series of Bonds as described. If there is an adjustment in the final aggregate principal amount of a series of Bonds or the schedule of principal payments as described above, any premium bid on such series of Bonds will be proportionately adjusted. At the request of the City, each successful bidder agrees to resize the Bond issue, adjust the premium and provide a revised maturity schedule to the City promptly after receipt of notification of such a request by the City.

*Subject to change.

Redemption of Bonds

Series 2010A Bonds. The Series 2010A Bonds maturing in the years 2012 through 2017, inclusive, shall become due on their stated maturity dates without the option of prior payment. At the option of the City, the Series 2010A Bonds maturing April 1, 2018, and thereafter, may be called for redemption and payment prior to their respective maturities on and after April 1, 2017, in whole or in part at any time at a redemption price of par, plus accrued interest to the date established for redemption and payment.

Series 2010B Bonds. The Series 2010B Bonds are not subject to optional redemption prior to maturity.

Mandatory Redemption. A bidder may elect to have all or a portion of a series of Bonds scheduled to mature in consecutive years issued as term bonds (the “Term Bonds”) scheduled to mature in the latest of those consecutive years and subject to mandatory redemption requirements consistent with the schedule of serial maturities set forth herein, subject to the following conditions for each series of Bonds: (a) not less than all Bonds of the same serial maturity shall be converted to Term Bonds with mandatory redemption requirements, (b) callable and noncallable serial maturities of the Bonds may not be combined in the same Term Bond maturity, and (c) a bidder must make indicate the Term Bond election on the bid submitted.

General Redemption Provisions. If less than all of a series of outstanding Series 2010A Bonds are called for redemption on a specified date, the method of selection of the Series 2010A Bonds to be called shall be designated by the City in such equitable manner as it may determine. In the case of Series 2010A Bonds registered in denominations greater than \$5,000, the City shall treat each \$5,000 of face value as though it were a separate Series 2010A Bond in the denomination of \$5,000.

Written notice of any call for redemption and payment of the Series 2010A Bonds shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Series 2010A Bonds called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

Paying Agent and Bond Registrar

The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as Paying Agent and Bond Registrar for the Bonds (hereinafter called the “Paying Agent”). The fees of the Paying Agent for the registration, transfer, exchange, payment and redemption, if any, of the Bonds shall be paid by the City. The City shall also pay for the printing of a reasonable supply of blank registered bond certificates for such purpose. Any additional costs or fees that might be incurred in the secondary market, except the fees of the Paying Agent, shall be the responsibility of the Registered Owners of the Bonds.

Payment of Principal and Interest on Bonds; Ownership Registration

One certificate representing the entire principal amount of each maturity of each series of the Bonds will be issued to The Depository Trust Company, New York, New York (hereafter called "DTC"), registered in the name of Cede & Co. (DTC's nominee), and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Bonds in the permitted \$5,000 denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Bonds will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Bonds. DTC's practice is to credit Direct Participants' accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Bonds.

Description of Notes

Series 240 Notes. The General Obligation Improvement Temporary Notes, Series 240, shall be issued in the principal amount of \$140,000,000,* shall bear a Dated Date of September 16, 2010, and a Maturity Date of September 15, 2011, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Notes shall bear interest from the Dated Date at the rate which shall be determined upon the public sale of the Notes, and said interest shall be payable on the Maturity Date.

Principal Amounts Subject to Change. The City reserves the right to increase or decrease the total principal amount of the Notes based on net note proceeds received by the City in order to properly size the Note issue including adjustment resulting from any premium bid. The successful bidder may not withdraw its bid or change the interest rate bid as a result of any changes made to the principal amount of the Notes as described. If there is an adjustment in the final aggregate principal amount of the Notes or the schedule of principal payments as described above, any premium bid on the Notes will be proportionately adjusted.

Redemption of Notes

The Notes may each be called for redemption and payment prior to their respective maturities on and after March 16, 2011, in whole or in part at anytime. Notes called for redemption and payment shall be redeemed at a price of 100% of the principal amount thereof, plus accrued interest to the date established for redemption and payment.

If less than all of the outstanding Notes are called for redemption on a specified date, the method of selection of the Notes to be called shall be designated by the City in such equitable manner as it may determine. In the case of Notes registered in denominations greater than \$5,000, the City shall treat each \$5,000 of face value as though it were a separate Note in the denomination of \$5,000.

Subject to change.

Written notice of any call for redemption and payment of the Notes shall be given by the Paying Agent by United States first class mail, not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Notes called for redemption and payment as shown by the Registration Books maintained by the Bond Registrar.

Payment of Principal and Interest on Notes; Ownership Registration

One certificate representing the entire principal amount of the Notes will be issued to The Depository Trust Company, New York, New York (hereafter called “DTC”), registered in the name of Cede & Co. (DTC’s partnership nominee,) and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Notes in the hereinbefore stated permitted denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Notes will be paid in same-day funds to DTC or its nominee as the Registered Owner of the Notes. DTC’s practice is to credit Direct Participants’ accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Notes.

Paying Agent and Note Registrar

The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as Paying Agent and Note Registrar for the Notes (hereinafter called the “Paying Agent”). The fees of the Paying Agent for the registration, transfer, exchange, payment and redemption, if any, of the Notes shall be paid by the City. The City shall also pay for the printing of a reasonable supply of blank registered note certificates for such purpose. Any additional costs or fees that might be incurred in the secondary market, except the fees of the Paying Agent, shall be the responsibility of the Registered Owners of the Notes.

Conditions of Bidding

Individual proposals for the purchase of each series of Bonds and/or the Notes shall be received bearing such rate or rates of interest as may be specified by the bidder, subject to the conditions of this paragraph.

Bonds.

The same rate of interest shall apply to all Bonds of the same series having the same maturity date. Each interest rate specified shall be in an even multiple of 1/8th or 1/20th of 1%. *No interest rate specified for a maturity for a series of Bonds may be more than 1% lower than the highest interest rate specified for any preceding maturity for such series of Bonds.* The maximum stated rate of interest on any Bond shall not exceed the daily yield for the ten-year treasury bonds published by *The Bond Buyer*, in New York, New York, on the Monday next preceding the date of the public sale, plus 6%. For the Series 2010A Bonds, no bid for less than \$22,169,952.50, plus accrued interest thereon from the Dated Date to the date of delivery, shall be considered, and for the Series 2010B Bonds, no bid for less than \$29,690,747.50 plus accrued

interest thereon from the Dated Date to the date of delivery, shall be considered. No supplemental interest payments shall be authorized. Each bid must state (i) the total interest cost to the City during the life of the applicable series of Bonds on the basis of the bid, (ii) the premium, if any, offered by the bidder, (iii) the discount, if any, offered by the bidder, (iv) the net interest cost to the City on the basis of the bid, and (v) the true interest cost (as hereinafter defined) on the basis of such bid. Each bid shall be certified by the bidder to be correct, and the Governing Body of the City shall be entitled to rely on such certificate of correctness.

Notes.

Only a single rate of interest for the Notes may be specified by the bidder. The interest rate specified shall be in an even multiple of 1/8th or 1/20th of 1%. The maximum stated rate of interest on the Notes shall not exceed the daily yield for the ten-year treasury bonds published by *The Bond Buyer*, in New York, New York, on the Monday next preceding the date of the public sale, plus 6%. No bid for less than par value, plus accrued interest thereon from the Dated Date to the date of delivery, shall be considered, and no supplemental interest payments shall be authorized. Each bid must state (i) the total interest cost to the City during the life of the Notes on the basis of the bid, (ii) the premium, if any, offered by the bidder, (iii) the net interest cost to the City on the basis of the bid, and (iv) the true interest cost (as hereinafter defined) on the basis of such bid. Each bid shall be certified by the bidder to be correct, and the Governing Body of the City shall be entitled to rely on such certificate of correctness.

Form and Submission of Bid

Bids must be submitted through the *PARITY* Electronic Bid Submission System (“*PARITY*”). To the extent any instructions or directions set forth in *PARITY* conflict with the Official Notice of Sale, the terms of the Official Notice of Sale shall control. All bids must be received by the undersigned prior to the Submittal Hour on the Sale Date, accompanied by the applicable good faith deposit described below, which may be submitted separately, provided such good faith deposit is received by the City prior to the Submittal Hour on the Sale Date. The City shall not be responsible for any failure, misdirection or error in the means of transmission via *PARITY*. Bids submitted in accordance with this section and accepted by the City as provided below shall be binding obligations of the bidders. For further information about the electronic bidding services of *PARITY*, potential bidders may contact Ipreo, 1359 Broadway, 2nd Floor, New York, NY 10010, (212) 849-5021.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the series of Bonds for which the bid is submitted (\$446,300 for the Series 2010A Bonds and \$597,700 for the Series 2010B Bonds), and each bid for the Notes shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the Notes for which the bid is submitted (\$2,800,000 for the Notes). **Good faith deposits must be received on or prior to the Submittal Hour as specified below.** The good faith deposit must be in the form of (1) a certified or cashier's check drawn on a bank located in the United States of America, payable to the order of the City, (2) a Financial Surety Bond (as described below) payable to the order of the City or (3) a wire of Federal Reserve funds (as described below), immediately available for use by the City. If a bid is accepted, such good faith deposit shall be

deposited by the City until the bidder shall have complied with all of the terms and conditions of this Notice and of its bid. In the event a bidder whose bid is accepted shall default in the performance of any of the terms and conditions of this Notice or of its bid, said bidder's good faith deposit shall be retained by the City for liquidated damages. If a bid is accepted, but the City shall fail to deliver the applicable Bonds or Notes to the bidder in accordance with the terms and conditions hereof, said good faith deposit amount shall be returned to the bidder. No interest shall be paid upon the successful bidder's good faith deposit. Checks representing the good faith deposit accompanying the bids of the unsuccessful bidders shall be promptly returned.

Certified or Cashier's Check Received By 10:00 a.m. If a certified or cashier's check is used for the good faith deposit, it must be received by the City by 10:00 a.m. Central Daylight Saving Time on the Sale Date by delivery to Ms. Catherine Gilley, Debt Coordinator, Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679.

Financial Surety Bond Received By 10:00 a.m. If a Financial Surety Bond is used for the good faith deposit, it must be from an insurance company licensed to issue such surety bond in the State of Kansas. Such surety bond must be submitted to the Director of Finance prior to the time that bids for the purchase of the applicable series of Bonds or the Notes will be received. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If a series of Bonds or the Notes is awarded to a bidder using a Financial Surety Bond, then that bidder is required to submit its good faith deposit to the City in the form of a certified or cashier's check or wire transfer as instructed by the Director of Finance not later than 2:00 p.m., Central Daylight Saving Time, on the next business day following the award of the applicable series of Bonds or the Notes. If such check or wire transfer is not received by that time, the Financial Surety Bond will be drawn by the City to satisfy the good faith deposit requirement.

Wire Transfer Received By 9:30 a.m. If a wire transfer of the good faith deposit is used, the wire transfer shall reference the applicable series of Bonds or the Notes and shall be sent to the City for receipt by 9:30 a.m. on the Sale Date. Wire transfer instructions may be obtained by contacting:

Catherine Gilley
Debt Coordinator
455 North Main – 12th Floor
Wichita, Kansas 67202
316/268-4143
cgilley@wichita.gov

If a wire transfer of the good faith deposit is used, the wire transfer identification information shall reference the applicable series of Bonds or the Notes by including the following information which shall be completed by the bidder with the applicable series designation

Ref: City of Wichita, Kansas Good Faith Deposit, Series _____
[fill in appropriate Series designation]

Contemporaneously with such wire transfer, each bidder shall send an e-mail to cgilley@wichita.gov and shenning@wichita.gov including the following information: (i) indication that a wire transfer has been made; (ii) the amount of the wire transfer; (iii) the wire transfer federal reference number; (iv) the issue to which it applies; (v) the return wire instructions if such bidder is not awarded the applicable series of Bonds or the Notes to which the wire transfer applies and (vi) the name of the bidder for which the wire transfer is to be credited as a good faith deposit.

Awarding of Bonds and Notes

Each series of Bonds and the Notes will be sold separately and each will be awarded to the responsible bidder offering to pay not less than the par amount of applicable series of Bonds or the Notes and accrued interest thereon and specifying a rate or rates of interest that result in the lowest effective interest rate to the City. The effective interest rate to the City shall be the interest rate per annum determined on a per annum true interest cost ("TIC") basis by discounting the scheduled semiannual debt service payments of the City on the applicable series of Bonds or the Notes (based on such rate or rates of interest so bid), to the Dated Date of such Bonds or Notes (based on a 360-day year), compounded semiannually and to the bid price, excluding accrued interest to the date of delivery. The City reserves the right to verify each bidder's calculation of TIC, and the award shall be made to the bidder whose proposal results in the lowest TIC calculated in accordance with the provisions of this Notice. If two or more identical bids for the lowest TIC are received, the Governing Body shall determine which bid, if any, shall be accepted, and such determination shall be final. The Governing Body reserves the right to reject any and/or all bids, and to waive any irregularities in any bid submitted. **The award of each series of Bonds is predicated upon the City achieving a certain level of savings in conjunction with the applicable refunding issue, such amount to be solely determined by the City.**

Ratings

The City's outstanding general obligation bonds are rated "Aa1" by Moody's Investors Service, Inc. ("Moody's") under its recalibrated global rating scale and "AA+" by Standard & Poor's, a division of the McGraw-Hill Companies ("S&P"). The rating of the City's general obligation bonds by Moody's prior to its recalibration was "Aa2." Moody's has indicated that market participants should not view the recalibration of municipal ratings as rating upgrades, but rather as a recalibration of the ratings to a different rating scale. This recalibration does not reflect an improvement in credit quality or a change in Moody's credit opinion for rated municipal debt issuers. For further details regarding the recalibration please visit www.moodys.com/gsr.

The City's general obligation notes are rated "*MIG 1*" by Moody's and "SP-1+" by S&P. The City has applied to both Moody's and S&P for ratings on the Bonds and Notes described herein.

Bond Insurance

The City has not applied for any policy of municipal bond insurance with respect to the Bonds or Notes and will not pay the premium in connection with any policy of municipal bond insurance desired by the successful bidder. In the event a bidder desires to purchase and pay all costs associated with the issuance of a policy of municipal bond insurance in connection with any series of the Bonds or the Notes, such intent must be specified on the bid and the bid must be accompanied by a commitment from the selected insurer specifying all terms and conditions to which the City will be required to agree in connection with the issuance of such insurance policy. Such commitment shall be delivered to the office of the Department of Finance, located on the Twelfth Floor of City Hall, 455 North Main, Wichita, Kansas 67202-1679. The Governing Body specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest true interest cost to the City.

CUSIP Identification Numbers

The CUSIP Service Bureau will be requested to assign CUSIP identification numbers to the Bonds and Notes, and such numbers shall be printed on the Bonds and Notes; however, neither the failure to assign any such number to or print any such number on any Bond or Note, nor any error with respect thereto, shall constitute cause for the failure or refusal by the successful bidder to accept delivery of and to make payment for the Bonds or Notes in accordance with the terms of this Notice and of its bid. All expenses in relation to the printing of the CUSIP numbers and the expenses of the CUSIP Service Bureau for the assignment thereof shall be the responsibility of and shall be paid for by the City.

Delivery of and Payment for Bonds

A single Bond per maturity, duly printed or typewritten, executed and registered in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder of each series of Bonds on or about September 16, 2010, by deposit of such Bonds with DTC. Payment for each series of Bonds shall be received by 12:00 noon, Central Daylight Saving Time, on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the applicable series of Bonds, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such series of Bonds affecting their validity and also regarding the completeness and accuracy of the Official Statement.

Delivery of and Payment for Notes

A single Note, duly printed or typewritten, executed, registered and countersigned in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder(s) of the Notes on or about September 16, 2010, by deposit of such Notes with DTC. Payment for the Notes shall be received by 12:00 noon, Central Daylight Saving Time, on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder(s) shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the Notes, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of the Notes affecting their validity and also regarding the completeness and accuracy of the Official Statement.

Official Statement

The Governing Body of the City has authorized and directed the preparation of a Preliminary Official Statement in connection with the issuance of the Bonds and Notes, copies of which may be obtained from the City's Department of Finance. The Preliminary Official Statement is in a form "deemed final" by the Governing Body for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final Official Statement. Authorization is hereby given to redistribute this Official Notice of Sale and the Preliminary Official Statement, but this entire Official Notice of Sale and the entire Preliminary Official Statement, and not portions thereof, must be redistributed.

By awarding the Bonds or Notes to any bidder or bidding syndicate submitting a proposal therefor, the Governing Body agrees that, no more than seven business days after the date of such award, it shall provide without cost to the senior managing underwriter of the syndicate to which such Bonds or Notes are awarded, a reasonable number of copies of the final Official Statement. The City designates the senior managing underwriter of any syndicate to which such Bonds or Notes are awarded as agent for purposes of distributing copies of the final Official Statement to each participating underwriter. Any bidder delivering a proposal with respect to the Bonds or Notes agrees thereby that if such proposal is accepted (i) it shall accept such designation, and (ii) it shall enter into a contractual relationship with all participating underwriters of the applicable series of Bonds or the Notes for purposes of assuring the receipt by each such participating underwriter of the final Official Statement. Copies of the final Official Statement in excess of a reasonable number may be ordered by the successful bidder at its expense.

Continuing Disclosure

The City will agree in the resolution of the City prescribing the terms of the Bonds and Notes to enter into an undertaking (the "Undertaking") for the benefit of the holders of the applicable series of Bonds and the Notes to send to the Municipal Securities Rulemaking Board (the "MSRB") through the Electronic Municipal Market Access facility, or other applicable entity as required or permitted under Securities and Exchange Commission Rule 15c2-12 (the

"Rule"), certain financial information and operating data annually and to provide notice to the MSRB of certain events, pursuant to the requirements of the Rule.

Authority, Purpose and Security

The Bonds and Notes shall be issued under the authority of and pursuant to the provisions of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, including specifically, with reference to the Notes, K.S.A. 10-123, as amended and supplemented. The Bonds and Notes shall be authorized by Ordinances to be adopted by the Governing Body. The Bonds and Notes and the interest thereon shall constitute general obligations of the City, and the full faith, credit and resources of the City will be pledged by the aforesaid Ordinances to the payment thereof. Reference is made to the City's Official Statement for a more extensive discussion of security for the Bonds and Notes.

Legal Opinion

All matters relating to the authorization and issuance of the Bonds and the Notes are subject to the approving opinion of Kutak Rock LLP, Kansas City, Missouri, Bond Counsel. Bond Counsel's opinion shall be furnished without expense to the successful bidder(s) concurrently with delivery of the Bonds and the Notes. All fees and expenses of Bond Counsel shall be paid by the City.

Tax Exemption

Exemption from State Tax. The interest on the Bonds and the Notes is excludable from the computation of Kansas adjusted gross income and the Bonds and the Notes are exempt from the tax imposed by Kansas counties, cities or townships upon the gross earnings derived from money, notes and other evidence of debt.

Exemption from Federal Tax- Series 2010A Bonds and Notes. In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the Series 2010A Bonds and the Notes (collectively, the "Obligations") is excluded from gross income for federal income tax purposes except as described herein. Bond Counsel is further of the opinion that interest on the Obligations Bonds is not a specific preference item for purposes of the federal alternative minimum tax and is not included in adjusted current earnings when calculating the federal alternative minimum taxable income for corporations. The opinion described in the preceding sentence assumes compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Obligations. Failure to comply with such requirements could cause interest on the applicable series of Obligations to be included in gross income for federal income tax purposes retroactive to the date of issuance of such Obligations, as applicable. The City has covenanted to comply with such requirements.

The accrual or receipt of interest on the Obligations may otherwise affect the federal income tax liability of the owners of the Obligations. The extent of these other tax consequences will depend upon such owner's particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Obligations, particularly purchasers that are corporations (including S corporations and foreign

corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the applicable series of Obligations.

Exemption from Federal Tax –Series 2010B Bonds. In the opinion of Kutak Rock LLP, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, interest on the Series 2010B Bonds is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax. The opinion described in the preceding sentence assumes the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the issuance of the Series 2010B Bonds. Failure to comply with such requirements could cause interest on the Series 2010B Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2010B Bonds. The City has covenanted to comply with such requirements. Bond Counsel has expressed no opinion regarding other federal tax consequences arising with respect to the Series 2010B Bonds.

Notwithstanding Bond Counsel’s opinion that interest on the Series 2010B Bonds is not a specific preference item for purposes of the federal alternative minimum tax, such interest will be included in adjusted current earnings of certain corporations, and such corporations are required to include in the calculation of alternative minimum taxable income 75% of the excess of such corporations’ adjusted current earnings over their alternative minimum taxable income (determined without regard to such adjustment and prior to reduction for certain net operating losses).

The accrual or receipt of interest on the Series 2010B Bonds may otherwise affect the federal income tax liability of the owners of the Series 2010B Bonds. The extent of these other tax consequences will depend upon such owner’s particular tax status and other items of income or deduction. Bond Counsel has expressed no opinion regarding any such consequences. Purchasers of the Series 2010B Bonds, particularly purchasers that are corporations (including S corporations and foreign corporations operating branches in the United States), property or casualty insurance companies, banks, thrifts or other financial institutions, certain recipients of social security or railroad retirement benefits, taxpayers otherwise entitled to claim the earned income credit, or taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, should consult their tax advisors as to the tax consequences of purchasing or owning the Series 2010B Bonds.

Not Bank-Qualified Obligations. The City has not designated the Bonds or the Notes as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Backup Withholding. As a result of the enactment of the Tax Increase Prevention and Reconciliation Act of 2005, interest on tax-exempt obligations such as the Obligations is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments made after March 31, 2007, to any bond or note holder who fails to provide certain required information including an accurate taxpayer identification number to any person required to collect such information pursuant to Section 6049 of the Code. The reporting requirement does not in and of itself affect or alter the excludability of interest on the Obligations from gross income for federal income tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

Original Purchaser's Certificate

Bond Counsel will prepare and furnish for execution to the successful bidder for each series of Bonds and the Notes, an Original Purchaser's Certificate which states that such Original Purchaser reasonably expects at least 10% of each maturity for such Bonds or Notes to be sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at initial reoffering prices to the public as shall be provided by the Original Purchaser thereof.

Additional Information

Additional information regarding the Bonds and Notes may be obtained from the Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679 (Ms. Catherine Gilley, Debt Coordinator, Telephone 316/268-4143, E-mail: cgilley@wichita.gov). To obtain a Preliminary Official Statement visit www.onlinemuni.com.

**BY ORDER OF THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS, ON JULY 20, 2010.**

By: /s/ Carl Brewer, Mayor

Carl Brewer, Mayor

(Seal)

ATTEST:

By: /s/ Karen Sublett, City Clerk

Karen Sublett, City Clerk

Second Reading Ordinances for July 20, 2010 (first read on July 13, 2010)

Public Hearing and Issuance of Industrial Revenue Bonds, (Learjet). (District IV & V)

ORDINANCE NO. 48-763

An ordinance authorizing the City of Wichita, Kansas, to issue its taxable industrial revenue bonds in the original aggregate principal amount not to exceed \$2,780,181.60 for the purpose of providing funds to finance the installation of improvements to certain existing aviation manufacturing and flight testing facilities as well as to finance the acquisition of certain machinery and equipment for such facilities located in the city of Wichita, Kansas; prescribing the form and authorizing execution of a seventeenth supplemental trust indenture by and between the city and the Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri (the “trustee”), as trustee with respect to the bonds; prescribing the form and authorizing the execution of a seventeenth supplemental lease by and between Learjet Inc. and the city; approving the form of a guaranty agreement; and authorizing the execution of a bond purchase agreement by and between the city and Learjet inc., as purchaser of the bonds.

Amendments to chapter 3.11 relating to Community Events and Creation of Chapter 3.14 relating to parades.

ORDINANCE NO. 48-766

An ordinance amending Sections 3.11.020, 3.11.060 and 3.11.080 of the code of the City of Wichita, Kansas, pertaining to community events and obstructing streets and sidewalks and repealing the originals of said Sections of the code of the City of Wichita, Kansas.

ORDINANCE NO. 48-767

An ordinance creating Sections 3.14.010, 3.14.020, 3.14.030, 3.14.040, 3.14.050, 3.14.060, 3.14.070, 3.14.080, 3.14.090, 3.14.100, 3.14.110 and 3.14.120 of the Code of the City of Wichita, Kansas, pertaining to parades and repealing chapter 3.13 of the Code of the City of Wichita, Kansas.

17th /Fairview at Woodlawn Intersection Improvement. (Districts I and II)

ORDINANCE NO. 48-768

An ordinance declaring the intersection of Woodlawn at 17th street North and Farmview Street (472-84907) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

Abatement of Dangerous and Unsafe Structures. (Districts I, III and VI)

ORDINANCE NO. 48-769

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (Building Condemnation-Demolition) under the provision of Sections 18.16.010 to 18.16.090 of the code of the city of Wichita, Kansas

ORDINANCE NO. 48-770

An ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance (Building Emergency Board-Up) under the provision of sections 18.16.010 to 18.16.090 of the code of the city of Wichita, Kansas.